

THE LONDON BOROUGH OF EALING
(SOUTH ACTON PHASE CHELTENHAM PLACE, FRAMPTON COURT, BELGRAVE CLOSE PHASE 7.2)
COMPULSORY PURCHASE ORDER 2022

ACQUIRING AUTHORITY STATEMENT OF CASE
UNDER RULE 7 OF THE COMPULSORY PURCHASE ORDER (INQUIRIES PROCEDURE) RULES 2007

London Borough of Ealing, Perceval House, 14-16 Uxbridge Road, Ealing, London W5

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(SOUTH ACTON PHASE CHELTENHAM PLACE, FRAMPTON COURT, BELGRAVE CLOSE PHASE 7.2) COMPULSORY PURCHASE ORDER 2022

STATEMENT OF CASE FOR MAKING THE ORDER

1. INTRODUCTION

1.1 Summary

- 1.1.1 This document is the Statement of Case (“Statement or Statement of Case”) pursuant to Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007 (“**the Rules**”), produced by London Borough of Ealing Council (“**Acquiring Authority**” or the “**Council**”) explaining the reasons and justification for making the London Borough of Ealing (South Acton Phase Cheltenham Place, Frampton Court, Belgrave Close Phase 7.2) Compulsory Purchase Order 2022 (“**Order**”)
- 1.1.2 This Statement of Case has been produced in accordance with the advice in Section 12 of the guidance issued in October 2015 (and last updated in July 2019) by the Department for Communities and Local Government (as was) entitled “Guidance on Compulsory Purchase process and The Crichel Down Rules” (“**CPO Guidance**”). It sets out the reasons why the powers of compulsory purchase contained in the Order are necessary and why there is a compelling case in the public interest for the Order to be confirmed by the Secretary of State. This Statement of Case is a statutory document.
- 1.1.3 On 16th July 2019 the Council by decision of its Cabinet resolved to delegate to the Council’s Executive Director of Place authority to make a compulsory purchase order to acquire the land as necessary for the purpose of redevelopment.
- 1.1.4 Following an Officer Decision dated 21 October 2021 the Order was made by the Acquiring Authority on 12 January 2022 under the provisions of section 226(1)(a) of the Town and Country Planning Act 1990 and the Acquisition of Land Act 1981. The Order has been submitted to the Secretary of State for the Department for Levelling Up, Housing and Communities to request its confirmation. On 17 June 2022 notice was given by the Planning Inspectorate that the Secretary of State has decided to hold a public inquiry into the Order pursuant to Rule 3 of the Rules in order to consider the two extant objections that have been received following the making of the Order.
- 1.1.5 The Order is required to support the regeneration of Acton Gardens. The proposed scheme (“**Scheme**”) and the Order Land (which is required to deliver Phase 7.2 of the Scheme) is described in more detail in section 4 of the Statement. Some of the land required for the development has already been secured by the Acquiring Authority through private treaty negotiations, but it is seeking to acquire the remaining land and any existing rights over land required for the Scheme through confirmation and implementation of the Order. The area over which land is required to be acquired compulsorily for the Scheme is referred to in this Statement as the Order Land.
- 1.1.6 After the expiry of the Objection Period (15 April 2022) the Acquiring Authority submitted the Order and supporting documents (including Statement of Reason) to the Secretary of State (“**SoS**” or “**Authorising Authority**”) for confirmation pursuant to the Acquisition of Land Act 1981 (“**ALA 1981**”)
- 1.1.7 The Acquiring Authority has the power to acquire land compulsorily in its area under

section 226(1)(a) of the Town and Country Planning Act 1990 (“**1990 Act**”). This Statement sets out the particular of the Council’s reasons and justification for the making of the Order which shall be put forward at the Inquiry. It seeks to supplement the Council’s Statement of Reasons, which should be read in conjunction with this Statement. This document sets out the case as to why the Council considers that there is a compelling case in the public interest for the Order, and that it justifies interfering with the human rights of those with an interest in the land.

2. STRUCTURE OF THIS STATEMENT

2.1 The contents of this Statement of Case include:

- 2.1.1 An explanation of the background to the scheme and the need for the development (**section 3**);
- 2.1.2 A description of the Order Land and its location, topographical features and present use (**section 4**);
- 2.1.3 Details of the steps the Acquiring Authority has taken to seek to acquire the Order Land by agreement. (**section 5**);
- 2.1.4 An outline of the Acquiring Authority's purpose in seeking to acquire the Order Land (**section 6, 7 and 8**);
- 2.1.5 A description of the proposals for the use or development of the land (**section 10**);
- 2.1.6 Any special considerations affecting the Order Land (**section 10.5**);
- 2.1.7 A statement justifying the extent of the Scheme to be disregarded for the purposes of assessing compensation in the "no-scheme" world (**section 10.10**);
- 2.1.8 A statement on the absence of impediments to the implementation of the Order and delivery of the Scheme (**section 11.5.3**);
- 2.1.9 A statement about the planning position of the Order Land (**section 13**);
- 2.1.10 Information regarding the funding of the Scheme (**section 14**);
- 2.1.11 A statement of the Acquiring Authority's justification for compulsory purchase with regard to Article 1 of the First Protocol to the European Convention on Human Rights and Article 8 if appropriate (**section 15**);
- 2.1.12 Summary of the consideration of the Equalities Act 2010 (**section 16**);
- 2.1.13 Details of any views which may have been expressed by a Government department about the proposed development of the Order Land (**section 18**);
- 2.1.14 Summary of remaining objections to the Order (**Section 21**);
- 2.1.15 Acquiring Authority’s response to the Objections (**Section 21**);
- 2.1.16 Details of documents which the Acquiring Authority would intend to refer to or put in evidence in the event of an inquiry (**Appendix 1**).

3. BACKGROUND TO THE SCHEME AND THE NEED FOR REDEVELOPMENT

3.1 Description of the Estate and Commencement of Redevelopment

- 3.1.1 Subject to the land transfer arrangements arising from the redevelopment proposals for the "Estate" outlined below at paragraph 3.2.1, the Council is the freehold owner of the Estate, which is situated in Acton, W3 in the London Borough of Ealing. Until February 2015, the Estate was entirely run and managed by the Council in its capacity as local housing authority for the area. Since this date, a limited range of management functions in respect of part of the Estate have transferred to a Tenant Management Organisation (the "TMO") known as South Acton Community Builders Co-operative under a Right to Manage Agreement with the Council, although this does not include the Order Land.
- 3.1.2 The Estate was built from the early 1950s to the 1970s and consisted initially of 2,100 homes, a community centre and a number of commercial units spread across three parades.
- 3.1.3 There are many differing property construction types on the existing Estate, and these include: a small number of traditionally-built houses, walk-up flats and maisonettes; concrete slab high-rise tower blocks (both pre-cast and in-situ poured); deck access blocks with external walkways at each level; and a concrete-framed brick-skinned development with high-level walkways and undercroft garaging. Three of the blocks on the wider Estate are sheltered housing for those aged over 55.
- 3.1.4 The Council, in consultation with key stakeholders, examined options for the regeneration of the Estate from the late 1990s onwards. This gained added momentum following the decanting and demolition of a very large 21 storey tower block in 2000 in the centre of the estate known as Barrie House, owing to a structural fault. Recognising the very large scale of the project and the importance of urban design issues the Council commissioned work on an Urban Design Framework ("UDF") for the Estate as a whole in 2001, led by architects John Thompson Partners. Extensive consultation with residents identified a range of issues that required addressing. These included:
- (a) Lack of permeability throughout the site, partially caused by rail infrastructure to the East and the South and exacerbated by the scale and layout of subsequent building post-1950.
 - (b) Poor layout and orientation of post-1950 development, especially with respect to the relationship to tertiary streets, and a seemingly "ad-hoc" approach.
 - (c) Poor quality public realm and open spaces.
 - (d) Archetype-specific issues related to the intrinsic design and construction of blocks. These include poor thermal and acoustic performance, lack of defensible and private amenity space, dark and hidden areas that encourage antisocial behaviour, insecure undercroft garaging and poor-quality communal areas.
- 3.1.5 The resultant UDF (approved by the Council's Cabinet in 2003) envisaged demolition of approximately 60% of existing stock and the retention and refurbishment of the remainder. It was envisaged that social housing grant would fund new homes, with receipts from the sale of land from demolished blocks funding land assembly costs and the refurbishment of retained homes. The former Barrie House site and an associated garage block were subsequently redeveloped

with housing association partner Ealing Family Housing Association (now Catalyst Communities Housing Association “CCHA”) to provide 79 new houses and flats for shared ownership and social rent. Work on this phase was completed in 2006.

- 3.1.6 In order to further the implementation of the regeneration of the Estate the Council then commenced the development of an area of the Estate then known as Phase 2 following completion of a development agreement in March 2006 with CCHA. The Phase 2 development was sub-divided into sub-phases 2.1, 2.2, 2.3 and 2.4. Outline planning permission for the redevelopment of Phase 2 was granted in March 2006.
- 3.1.7 Sub-Phase 2.1: This was the first sub-phase to be implemented. Lawrence Court, Maugham Court and Reade Court were demolished in order to carry out this development sub-phase. The leasehold interests in these blocks plus those in Bollo Court (which occupied the northern part of the of the Sub-Phase 2.3 land) were the subject of the London Borough of Ealing (South Acton Estate Acton W3) Compulsory Purchase Order 2004 (“**2004 CPO**”). The First Secretary of State confirmed the 2004 Order in September 2005, and the Council acquired all leaseholders’ legal interests in those blocks.
- 3.1.8 The Council subsequently promoted the London Borough of Ealing (South Acton Estate Acton W3) Compulsory Purchase Order No.1 2006 (the “**2006 CPO**”) in respect of four pram sheds on the Sub-Phase 2.1 land. The Secretary of State under section 14A of the ALA 1981 gave notice to the Council that power to confirm the 2006 CPO may be exercised by the Council. The Council on 8th June 2006 duly confirmed the 2006 CPO. All interests in the sheds were acquired by the Council and the sheds demolished.
- 3.1.9 A reserved matters application pursuant to the Outline Permission for 129 homes for affordable rent and shared ownership was submitted, and subsequently approved during May 2007. Construction of the new homes on the Sub-Phase 2.1 land was completed at the end of March 2010.
- 3.1.10 Sub-Phase 2.2 required the acquisition of all interests in Shaw Court and Verne Court other than those already owned by the Council and all interests in Kipling Tower car park other than those already owned by the Council. These interests were the subject of the London Borough of Ealing (South Acton Estate) Compulsory Purchase Order 2007 (“**2007 CPO**”). The Secretary of State under section 14A of the ALA 1981 gave notice to the Council that power to confirm the 2007 CPO may be exercised by the Council. The Council in September 2007 duly confirmed the 2007 CPO.
- 3.1.11 A reserved matters application submitted by CCHA was subsequently approved by the Council’s Planning Committee in April 2009 and proposed 125 homes for affordable rent and shared ownership. This included the development of new homes adjacent to the site of Kipling Tower. In order to allow occupation of the new homes, the demolition of Kipling Tower was required, and this was the subject of the London Borough of Ealing (South Acton Estate) Compulsory Purchase Order 2009 (**2009 CPO**). The Secretary of State confirmed this order with modifications in November 2009 and the Council subsequently acquired the legal interests of all the leaseholders in the block. The demolition of Kipling Tower was completed in July 2010. The development of Phase 2.2 was completed in late 2012.
- 3.1.12 Phase 9.4 required the acquisition of all interests in Bollo Lane and Osborne Road other than those already owned by the Council. These interests were the subject of the London Borough of Ealing (Acton Gardens, Bollo Lane and Osborne Road)

Compulsory Purchase Order 2020. The Secretary of State confirmed the Order with modification on 26 October 2020.

- 3.1.13 Phase 8.2 required acquisition of interests in Barwick House Carisbrooke Court and 93 Brouncker Road. These interests were the subject of the London Borough of Ealing (Acton Gardens, Brouncker Road, Barwick House and Carisbrooke Court) Compulsory Purchase Order dated 22 December 2020. An inquiry in relation to this Compulsory Purchase Order is scheduled to commence later this year.

3.2 Estates Review

- 3.2.1 The Council's Cabinet approved the recommendations of an Estates Review in February 2008. This reported the findings of a comprehensive review of all major estates in the borough and, in relation to the South Acton Estate, recommended that all future phases of the regeneration programme become the subject of a comprehensive and inclusive developer selection process. The primary reasons for selecting a development partner for all future phases included:

- (a) A desire to quicken the pace of redevelopment.
- (b) A coherent and holistic approach towards regeneration of South Acton.
- (c) The ability to cross-fund loss-making phases of development through overage from phases showing a surplus, thus reducing reliance on availability of Council capital funding.

- 3.2.2 The Council had, by this stage, concluded that the UDF as initially envisaged was almost certainly unviable without substantial central Government grant.

3.3 Developer Selection

- 3.3.1 A series of block meetings were held following the conclusions of the Estates Review to advise residents of the Council's decision and to invite people to join a Developer Selection Group ("DSG"). A personal letter to every household within the Estate also requested volunteers.

- 3.3.2 The DSG comprised up to 14 individuals (with both tenants and leaseholders represented) and it assisted the Council to develop bidding documentation setting out resident requirements, assessed bids at the various stages of the "OJEU" selection process, visited completed schemes constructed by the various bidding consortia and made a final recommendation to the Council's Cabinet. Resident requirements for bidding documentation drew heavily on the previous, widely consulted, UDF.

- 3.3.3 The Council's Cabinet confirmed the selection of London & Quadrant Housing Trust (L&Q) and Countryside Properties (UK) Limited, who have subsequently formed a Limited Liability Partnership known as Acton Gardens LLP, as preferred partner on 26th January 2010. A Principal Development Agreement was signed on 25th March 2011.

3.4 South Acton Masterplan

- 3.4.1 Building on the bid submission, Acton Gardens LLP commenced an extensive 10-month consultation programme agreed with the Council and South Acton Community Board from March 2011. This included a variety of consultation methods designed to capture as broad a range of resident and stakeholder opinion

as possible, and included:

- Questionnaires (one to one interviews)
- Exhibitions and events
- Newsletters
- Website
- Local office and staff presence
- Walkabouts
- Establishment of an elected residents' Community Board, design & management sub-group
- Small focus group meetings

3.4.2 Drawing upon the feedback from residents, substantive amendments were made to the proposals. The masterplan proposals envisage the redevelopment of all the original 1,860 homes at South Acton and their replacement with approximately 2,350 high quality homes constructed in four neighbourhoods. Each neighbourhood has as its centrepiece a new or substantially improved park or open space.

3.4.3 Principal benefits of the development outlined in the subsequent Masterplan approved in August 2013 included:

- (a) Redevelopment of all remaining 1960s and 1970s blocks resulting in the transformation of the Estate by providing high quality affordable and private homes on a tenure blind basis in five distinct, sustainable and vibrant neighbourhoods, each with access to new or upgraded parks, with an overall 20% increase in open space across the development;
- (b) The provision of appropriate infrastructure and social amenities including new roads, pedestrian and cycle paths, utility connections, car parking, refuse storage, recycling collection facilities, commercial and community facilities;
- (c) The replacement of any demolished tenanted homes with homes containing an equivalent number of habitable rooms, with approximately 50% of homes across the Scheme being defined as "affordable";
- (d) All new homes, whether for resident leaseholders, existing transferring tenants or intermediate housing will be provided in accordance with the Mayor of London's Housing Design Guide;
- (e) An "Equity Share" offer by the developer to enable resident leaseholders to move to one of the new homes being constructed and remain in the area should they wish;
- (f) The agreed mixture of residential homes in terms of size and type is set out in the Agreed Tenure Mix, with an emphasis on increasing the number of family homes;
- (g) Code for Sustainable Homes Level 4 will be achieved across all tenures, including

extensive use of renewable resources and development of energy strategy proposals;

- (h) All homes will meet the Lifetime Homes Standard and 10% will be in accordance with wheelchair accessibility standard as set out in the Council's planning policy;
- (i) The integrated management of the Estate as part of an overall Estate Management Strategy which supports community regeneration focussing on creating employment and training opportunities and resident involvement in the community; and
- (j) A phased approach to the development that allows the community to remain intact through “pairing” new build phases with demolitions.

3.4.4 The Masterplan was endorsed by the Community Board before being submitted to the Council’s Planning Committee in February 2012 (P/2012/0708) and was granted final consent in August 2013.

3.5 Delivery of the Acton Gardens Masterplan

3.5.1 The original Phasing Plan for the Masterplan envisaged eleven phases of redevelopment over a 15-year period. As noted above, a key element of the Phasing Plan was the “pairing” of decanting phases with phases of newly built properties thus allowing as many current residents as possible to simply move straight into new homes within the Scheme should they choose to stay living at South Acton.

3.5.2 In total, as of June 2022, 2,661 new homes have either been delivered, are on-site or have received detailed planning permission, with approximately half of these being affordable – either social rent, shared equity for transferring leaseholders, or shared ownership.

3.5.3 Since 2012, planning policy in relation to building density in particular has moved on considerably, and each of the more recent phases have been amended to deliver a higher number of homes than anticipated. Rather than continue to deviate from the 2013 Masterplan it was felt, after discussion with Planning Officers, that a re-worked masterplan for remaining phases was required

3.5.4 Extensive consultation with residents and other stakeholders undertaken between 13 February 2019 to 24th April 2019 set the parameters for the new Masterplan. This is outlined in Section 15.

3.5.5 Not wishing to deviate extensively from the original Masterplan (which stakeholders indicated has been successful) the new Masterplan carefully uses the topography of the site to increase density and storey heights in key areas whilst marginally increasing and better defining the amount of open space.

3.5.6 Key features of the new Masterplan granted permission on 24 December 2018 (ref:182579OUT) include:

- An uplift of over 856 new homes within the masterplan area.
- The whole masterplan will provide a 31 percent increase in the number of affordable homes that existed before the generation.
- Forty-nine percent of all new homes will be 'affordable' – 40 percent at social rent levels and 9 percent shared equity for transferring leaseholders, or

shared ownership.

- Significantly increased community contributions via s106 planning gain.
- Overall, Acton Gardens will be providing one in every four new homes in the borough of Ealing until 2022.

4. THE ORDER LAND

4.1 Location

- 4.1.1 The Order Land forms Phase 7.2 of the Acton Gardens Masterplan with reserved matters approved in 2021 (reference 21/1783/REM), which is within the London Borough of Ealing. Ealing is located in west London and borders the boroughs of Hillingdon to the west, Harrow and Brent to the north, Hammersmith and Fulham to the east and Hounslow to the south.
- 4.1.2 The Order Land comprises Cheltenham Place, Frampton Court and Belgrave Close and is outlined in red on the Order Map. The Order seeks to acquire all estates and interests in the Order Land, other than those already owned by the Council.
- 4.1.3 The parts of the Masterplan that remain to be developed (the “**Remaining Masterplan Area**”) are shown in Appendix 2. The Order Land is situated in the northern part of the Remaining Masterplan Area and is bounded to the west to Langley Drive; to the north by Mill Hill Road; to the south by Avenue Road and to the east by Church Road.

4.2 Description of interests in the Order Land

- 4.2.1 The Order Land is represented on the Compulsory Purchase Order Map as follows:
- (a) All rights, easements, restrictions, other than those of the acquiring authority in, 518 square metres or thereabouts of communal gardens, residential premises known as 98, 98a, 98b, 98c, 100, 100a and 100b Avenue Road, Acton, London W3 8QD and
- (i) All interests in land of residential premises known as 98b Avenue Road, London, W3 8QD;
- (b) All rights, easements, restriction, other than those of the acquiring authority in 839 square metres or thereabouts of shared gardens and residential premises known as 4-12 and 15-20 (inclusive) Belgrave Close, Acton, London, W3 8QA and
- (i) All interests in land of residential premises known as 4 Belgrave Close, London, W3 8QA; and
- (ii) All interests in land of residential premises known as 8 Belgrave Close, London, W3 8QA
- (c) All rights, easements, restrictions, other than those of the acquiring authority in 662 square metres or thereabouts of shared gardens and residential premises known as 26-44 (evens) Cheltenham Place, Acton, London, W3 8UP and
- (i) All interests in land of residential premises known as 40 Cheltenham Place, London, W3 8UP

- (d) All rights, easements, restrictions, other than those of the acquiring authority in 68 square metres or thereabouts of land east of residential premises known as 1-64 (inclusive) Frampton Court, Cheltenham Place and west of residential premises known as Lancastrian, Avenue Road, Acton, London, W3 8YS

and including if any and not limited to, associated walkways, balconies, gardens, housing amenity land, communal areas stairways, utility rooms, bin stores, electricity intake rooms, lifts, service area and car parking space in relation to the above.

5. DETAILS OF ATTEMPTS TO ACQUIRE INTERESTS BY AGREEMENT

5.1 Acquisition of land and rights

- 5.1.1 As encouraged by paragraphs 2 and 19 of the Guidance the Council since the making of the Order has continued to negotiate the acquisition of all relevant rights, easements, restrictions and land interests by way of private treaty.
- 5.1.2 Three council tenanted properties are still occupied and will be demolished by Acton Gardens LLP under the development agreement once vacant possession has been secured.
- 5.1.3 It is only now at a point where the Council has been unable to agree terms of acquisition for the four remaining land interests does the Council as a last resort find it expedient and sees a compelling case in the public interest to provide needed affordable housing, to seek confirmation of the Order
- 5.1.4 All heads of terms for acquisition of land are based on neutral impartial valuation report carried out by accredited surveyors sought by qualifying interest and its reasonable cost paid for by the Acquiring Authority. The Acquiring Authority also carries out its own valuation. Both parties' valuation report forms the foundation of all offers and without such valuation report it becomes impossible for the surveyors to negotiate and agree a market value.
- 5.1.5 Further to paragraph 19 of the Guidance, the Acquiring Authority allocated a single point of contact who (as permitted by the qualifying interest):
- (a) kept all qualifying interest updated to the progress of the compulsory purchase process
 - (b) dealt with any issues, queries or concerns raised by qualifying interest
 - (c) offering advice and assistance to affected occupiers in respect of their relocation, funding for legal fees, surveyors' reasonable costs and costs incurred as a result of the relocation
- 5.1.6 The approach taken by the Acquiring Authority pursuant to paragraph 2, 18 and 19 of the Guidance has led to the acquisition/agreement of sale for all but 4 (four) remaining land interests.

5.2 Update on negotiations

- 5.2.1 The Council has been seeking to acquire interests by agreement for this element of the Scheme – along with all other phases. In relation to this phase, the first contact was made with residents on 16th July 2018.

5.2.2 There are now only four leaseholders remaining with interests to be acquired, of which 3 are occupiers and 1 is a non-occupier. These are:

- (a) 98B Avenue Road, Acton, London, W3 8QD;
- (b) 4 Belgrave Close, London, W3 8QA;
- (c) 8 Belgrave Close, London, W3 8QA; and
- (d) 40 Cheltenham Place, Acton, London, W3 8UP.

5.2.3 Efforts are continuing to acquire the remaining interests voluntarily.

5.3 **Compensation and rehousing**

5.3.1 The Council will pay to the parties affected by this compulsory purchase order the full open market value for their property and, where so entitled, home loss payments, basic loss payments and occupiers loss payments and reasonable disturbance compensation, (such as removal expenses and reconnection costs).

5.3.2 The Council would expect and anticipate that all leaseholders will find for themselves new properties on the open market but is also aware of its residual liability under section 39 of the Land Compensation Act 1973 to provide accommodation for a person where suitable alternative residential accommodation on reasonable terms is not otherwise available to them.

5.3.3 The Principal Development Agreement between the Council and Acton Gardens LLP commits the developer to offering resident leaseholders in South Acton the opportunity to take up equity share arrangements in one of the new properties being built on the Estate should they so choose. This option does not require the payment of any rent or interest on the non-owned capital element.

5.3.4 Leaseholders are expected to transfer the full value of their current home (less compensatory payments and redemption of any mortgage and/or charge) into the new property, with any 'value gap' being met by the housing association. As the value gap is being met by the housing association, the Leaseholder is not required to obtain a mortgage. The Leaseholder will have the opportunity to acquire further equity in the property should they wish to do so and may do so by way of mortgage.

5.3.5 The housing association would then have a 'charge' on the property equivalent to the value gap, but the leaseholder would not be required to make any rent or interest payments on this. The leaseholder can if they wish pay the 'value gap' sum back to Acton Gardens gradually or as a whole, but there is no requirement to do so while the property remains in their ownership. A number of resident leaseholders have taken up this option across both equity share offers.

5.4 **Proposed Redevelopment**

The Council proposes to purchase all estates and interests in the Order Land (except those already owned by the Council) preferably by agreement, but if necessary compulsorily under this Order. Once purchased the buildings will be demolished to allow the site to be cleared and redeveloped with newly built housing as a London Affordable Rent, over 55's accommodation (Active Living), Shared Ownership and private sale. Properties sold will help cross-subsidise the building of affordable homes. A total of 185 new homes will be built, as set out in section 10 below. In order to ensure that the regeneration of the area and development can take place it is necessary for the Acquiring Authority to compulsorily acquire the interests in the land needed.

6. **ENABLING POWER UNDER THE TOWN AND COUNTRY PLANNING ACT 1990**

- 6.1 The Order has been made pursuant to the provisions of Section 226(1)(a) of the Town and Country Planning Act 1990 to facilitate the implementation of the redevelopment of the Estate upon the Order Land. Use of this power was approved by the Acquiring Authority's Cabinet on 16 July 2019 to deliver the remaining phases of the South Acton Regeneration Programme.
- 6.2 Section 226(1)(a) empowers an acquiring authority, on being authorised by the Secretary of State, to acquire compulsorily any land in their area:
- 6.2.1 If the acquiring authority thinks that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to that land; and
 - 6.2.2 The development, redevelopment or improvement is likely to contribute to the promotion or improvement of the social, economic or environmental well-being of their area.
- 6.3 The regeneration of the Estate is one of the most important of the Council's current community strategies. It will deliver the following:
- 6.3.1 **Good, genuinely affordable homes and good quality homes:** – The genuinely affordable homes provided at Acton Gardens will be offered at London Affordable Rent with priority for existing Secure Tenants being displaced by the redevelopment. There will also be a mixture of private sale and shared equity homes for existing resident leaseholders to enable them to stay on the Estate.
 - 6.3.2 **Opportunities and living incomes:** – A comprehensive jobs and skills training programme for local residents is included with each regeneration project to ensure local people have an opportunity to gain from the development through work opportunities.
 - 6.3.3 **A healthy and great place:** – The comprehensive regeneration of former South Acton Estate will improve public health through better design of housing and the alleviation of overcrowding. Provision is made for residents with disabilities and the provision of wheelchair accessible housing. The newly designed estate will consist of high-quality homes designed to improve safety and the Council is committed to working with the Police to ensure developments are "secure by design".
- 6.4 The development will assist in tackling social exclusion, promote regeneration initiatives, improve local environmental quality and create sustainable communities through a better balance of available housing, thereby contributing to the promotion of the social, economic and environmental well-being of the Acquiring Authority's area.
- 6.5 The Council therefore considers that Section 226(1)(a) of the Town and Country Planning Act 1990 is the correct and proper enabling power in the promotion of this Order.

7. REGENERATION AIMS AND OBJECTIVES

- 7.1 The purpose of the regeneration initiative is to secure the comprehensive and fundamental redevelopment and regeneration of the Estate.
- 7.2 The remaining parts of the Estate which have yet to be redeveloped consist of Council owned and managed blocks of flats (aside from those where the TMO provide a limited range of services) occupied largely by Council tenants and to a much smaller degree by leaseholders and/or freeholders. The Estate has some strengths, not least its community spirit and access to good public transport links and proximity to Acton Town Centre but has suffered from underinvestment in the past and the parts of the Estate that have not been redeveloped are in

essence socially excluded areas with poor quality housing juxtaposed against adjoining higher quality housing.

- 7.3 The Estate regeneration project responds to the significant opportunities provided by the Estate's location near to Acton Town Centre, and its access to nearby transport links. Embracing the strong sense of community, the project seeks to transform the area both physically and economically into a vibrant, sustainable mixed tenure neighbourhood.
- 7.4 The objective is a high-quality urban environment across the new development as a whole with residential neighbourhoods that mix housing types, tenures and different income groups. This has been achieved on other elements of the Scheme delivered by Acton Gardens LLP. The new development will provide a higher density of housing accommodation than currently prevails and in this context will achieve:
- 7.4.1 no loss of affordable rented housing in relation to habitable rooms when the project is complete, and a better mix of unit sizes;
 - 7.4.2 the provision of London Affordable Rented housing for rent and shared ownership housing for sale;
 - 7.4.3 replacement housing for current resident leaseholders and freeholders who cannot afford to buy new homes outright; and
 - 7.4.4 a balance of housing for outright sale.
- 7.5 In addition to the above qualitative and quantitative housing gain the Scheme will integrate and/or provide and/or enhance:
- 7.5.1 community facilities;
 - 7.5.2 employment opportunities;
 - 7.5.3 education and youth facilities;
 - 7.5.4 commercial premises for the locality;
 - 7.5.5 housing provision for older people;
 - 7.5.6 the transport infrastructure;
 - 7.5.7 significantly improved landscaping and public areas including additional public open space and allotments;
 - 7.5.8 integration with the surrounding area; and
 - 7.5.9 affordable and green energy supplies for residents in the new homes;
- 7.6 The benefits set out in paragraphs 7.4 and 7.5 above taken together, will greatly add to the economic, social and environmental well-being of the whole Estate.
- 7.7 The Council is working in partnership with Acton Gardens LLP to ensure that a comprehensive approach to regeneration activities on the Estate is undertaken. These centre on investment in training and employment opportunities for local people and ensuring that construction activities provide longer-term jobs and skills for those currently excluded from the labour market.
- 7.8 Tenants who want to move into new homes on the Estate will be offered homes that are

appropriate for their household needs, and this will assist to ease the significant overcrowding issues on the Estate.

- 7.9 The regeneration scheme will continue to build on the many positive aspects on the Estate, will improve access to transport and green spaces and will support the arrangements for community involvement which have been developed to help address problems such as social exclusion.
- 7.10 The Order Land forms part of the wider Estate and as such its redevelopment will contribute to other facilities through planning obligations including financial contributions towards improvements for education, open space, and jobs and training. For example, for each phase a contribution of £31,250 has been paid to the London Borough of Ealing, towards the improvement of local education provision for school age children. In addition, £61,143 will be paid at each phase towards the provision of health care locally. This will help create a better community. Financial contributions from each phase of the regeneration scheme will be allocated to community initiatives to support the physical regeneration activities.
- 7.11 The Council and Acton Gardens LLP are pursuing a Green Energy policy that will include building to the Code for Sustainable Homes Level Four and a commitment to least a 34% reduction in carbon emissions from the new development. Phase 7.2 achieves a 35% on-site reduction in carbon emissions above Part L requirements, with a carbon offset payment to achieve net zero carbon, in line with London Plan requirements.
- 7.12 The fabric of the Estate's environment will also be improved through the creation or enhancement of five large new public open spaces, doorstep play locations and clear and safe parking areas. The effective street lighting and good quality street furniture that will be installed will also contribute to the environmental improvements. At Phase 7.2, publicly accessible streetscapes will be delivered, including the construction of two new roads and cycle paths to enhance the connectivity through the estate. The northern elevation of the building fronts onto the new tertiary route, a key pedestrian route inherent to the future Clandon Gardens, one of the five large public open spaces. Informal play-on-the way will be integrated within the enhanced landscape features and rain gardens, to encourage active use of the public space.

8. JUSTIFICATION FOR COMPULSORY PURCHASE

- 8.1 The envisaged regeneration, and the long-term physical, economic, social and environmental benefits that flow from it, are reliant upon the timely provision of vacant possession of existing blocks, and the Order Land delivers a sub-phase of this major programme with the demolition and rebuilding of the Acton Gardens Phase 7.2 area. If terms for the purchase of the remaining land interests cannot be reached by agreement, the Council may, as a matter of last resort, have recourse to compulsory purchase authorised by the Order.
- 8.2 Without ensuring that the buildings identified for demolition and the land required for replacement housing are completely vacant when needed, the rolling development programme will stall, and the comprehensive regeneration of the Estate will fail. The nature of the regeneration programme is that each new build phase is paired with a new phase of development for decanting purposes. The regeneration programme would stall if the Council were unable to get vacant possession for phase 7.2 because residents from the next decant phase will move to the new homes once they are completed. There is insufficient supply of social rent homes within the Council's stock in the Borough to which these households can be moved. Whilst it is hoped all acquisitions can be by agreement, reserve compulsory purchase powers are therefore essential to ensure the regeneration process is sustained.
- 8.3 The Department for Levelling Up Housing and Communities recognises in the Guidance that there are situations where it is appropriate to make a compulsory purchase order at the same time as seeking to purchase land by agreement. The Council is satisfied that it has made reasonable

attempts to acquire outstanding interests by private treaty however the Council requires the Order to be made and confirmed in order to ensure that the acquisition of the outstanding interests necessary to enable the implementation of the Scheme will be possible. Discussion will, however, continue with the owners of the relevant interests to seek to acquire the land by agreement with a view to limiting the number of interests which need to be compulsorily acquired. The Council recognises that a compulsory purchase order can only be made if there is a compelling case in the public interest which justifies the overriding of private rights in the land sought to be acquired. It is considered that the benefits of the Scheme as explained in this Statement are compelling and overwhelmingly in the public interest.

9. HOUSING NEEDS

- 9.1 The Council faces extensive demands for affordable housing in the Borough. There were 12,230 households on the Council's Housing Affordable Housing Register as of June 2022, of which 6,863 households require family sized accommodation of 2 bedrooms or larger. Only 526 social housing lettings were recorded in the year 2021/22 from housing association and the Council's own stock of accommodation, of which only 282 were lets for 2 bedroom+ social housing units. Based on information about households on the Council's Housing Register, there is a critical need for 3 bedroom+ properties as these bed sizes have the longest waiting time. The Planning Practice Guidance identifies a critical need to provide housing for older people.
- 9.2 As part of its aims for the regeneration of the Estate, the Council is seeking to ensure that there is no net loss in the supply of affordable rented housing, together with a reprofiling of the unit size mix to ensure more family-sized homes, a shortage of which has been identified across all tenure types in the borough of Ealing.
- 9.3 The regeneration programme effectively enables households to be moved to homes more suitable for their needs through new provision, whilst conserving the very limited number of homes available elsewhere in the borough.
- 9.4 The Council will ensure that such affordable housing aims are achieved, using its powers as planning authority, as vendor of the land and through its role as one of the strategic partners in the regeneration.

10. PROPOSED DEVELOPMENT

- 10.1 It is intended that once demolished by the Council, the site will be cleared and will be utilised to build homes for Over 55's accommodation, London Affordable Rent, Shared Ownership and Private Sale tenures, as envisaged in the reserved matters application for Phase 7.2 which was submitted in January 2021 and granted on 19 May 2021 by the Council's Planning Committee.
- 10.2 Phase 7.2 will comprise a residential-led mixed use block of 185 residential homes within a perimeter style block with four distinct cores. The design proposes a courtyard style residential development consisting of four blocks between 6 and 12 storeys. The building will deliver 185 new apartments and maisonettes, combined with a new energy centre, new residential amenity space and with associated landscaping, refuse and recycling facilities and car and cycle parking.
- 10.3 The over-55s accommodation at Phase 7.2 is unique to the wider Acton Gardens Masterplan and responds to the housing need on the Acton Garden Estate. There is a need to bring the over-55 accommodation forward in order to decant residents, who have a need for this specialist housing but are currently living in blocks required for demolition in future phases. Any obstruction to the development of Phase 7.2, will therefore impact upon our ability to bring forward future phases at Acton Gardens and further restrict our ability to deliver affordable housing in the borough. Significant design work has gone into ensuring that these homes are of an enhanced specification and are appropriate to the requirements of residents who are over 55 years of age. For example:
- 10.3.1 the active living one bedroom / two person apartments are larger than the housing

- standard requirements so that they can be adapted for M4 wheelchair user dwellings;
- 10.3.2 in the basement of this core, a scooter room has been designed in for residents to store and charge their electric scooters;
- 10.3.3 within the apartments all the appliances are designed to enable ease of access for example in controls at the front of the hob and a high-level oven, to avoid the need to bend down.

10.4 Further detail on this can be found in the Design and Access Statement and the Affordable Housing Statement, submitted as part of the reserved matters application for Phase 7.2. A copy of the Affordable Housing Statement is attached at Appendix 3.

10.5 As highlighted in the Energy Strategy in Appendix 4, the delivery of Phase 7.2 is central to the success of the energy strategy for the wider Acton Gardens Masterplan. The central plant serving all existing and forthcoming phases at Acton Gardens is proposed to be located within Phase 7.2, to include an air source heat pump installation with a total capacity of around 1700kW mounted at roof level. In addition, there is a strong environmental and social benefit through the delivery of this phase, with the heat pumps having the potential to reduce the emissions on the existing phases by 43% and on new phases by 13.5%. This will result in reducing future fuel costs for the residents at Acton Gardens.

10.6 A mix of 1, 2 and 3-bedroom apartments and maisonettes are proposed across a mix of tenures. The table below illustrates this mix as homes (u) and habitable rooms (hr).

Unit	Total	TENURE			
		Private	Shared Ownership	London Affordable Rent	Active Living (London Affordable Rent)
1 bed/ 2 person	75u 150hr	27u 54hr	4u 8hr	0u 0hr	44u 88hr
2 bed / 3 person	28u 84hr	22u 66hr	6u 18hr	0u 0hr	0u 0hr
2 bed / 4 person	45u 135hr	39u 117hr	6u 18hr	0u 0h	0u 0hr
3 bed / 5 person	30u 138hr	10u 40r	2u 8hr	18u 90hr	0u 0h
4 bed / 6 person	7u 42hr	0u 0hr	0u Hr	7u 42hr	0u 0h
TOTAL	185u 549hr	98u 277hr	18u 52hr	25u 132hr	44u 88hr

Proposed Dwelling Mix and Tenure

10.7 All homes have been designed to comply with the Mayor’s Housing SPG 2016 and Building Regulations Part M. Of the 185 homes being provided, 10% (19 homes) will be provided as wheelchair adaptable in accordance with Part M 4(3).

10.8 Affordable Housing

10.8.1 A total of 549 habitable rooms (HR) are proposed as part of the application for Phase 7.2.

10.8.2 A total of 272 HR are proposed to be provided as affordable housing (132 HR as London Affordable Rent product 52 HR as Shared Ownership and 88 HR as Over 55's / Active Living).

10.8.3 This equates to a total 50% provision on a habitable room basis, which itself is split, as follows: -

- (a) 80% London Affordable Rent / Over 55's; and
- (b) 20% Shared Ownership.

10.8.4 The development will be tenure blind with no distinguishable difference between the appearances of the various tenures of accommodation.

10.9 The 25 units to be provided as London Affordable Rented Units within Phase 7.2 are all 3 or 4 bedroom homes in response to the critical need for 3 bedroom+ properties in the Borough highlighted in paragraph 9.1 above.

10.10 This is the extent of the Scheme to be disregarded for the purposes of assessment of compensation in the "no-scheme" world. The relevant policies which support the Scheme are set out in section 13 below.

11. TIMESCALE FOR DELIVERY

11.1 The detailed application (Reserved Matters) for Phase 7.2 was submitted in January 2021. Reserved matters approval was issued on 19 May 2021 (ref 211783REM) pursuant to an outline planning permission granted on December 2018 (ref: 182579OUT).

11.2 It is intended that as soon as vacant possession is secured the buildings will be demolished to enable new homes to be constructed on the Phase 7.2 site.

11.3 The construction period will run for approximately 36 months, including the demolition of the existing blocks, and it is envisaged that the first of the new properties will become available for occupation from June 2025, subject to securing vacant possession.

11.4 As properties become available for sale (private sale and shared ownership/equity share) and for letting, residents from blocks intended for subsequent demolition in future phases will be re-housed, and so the redevelopment programme will continue.

11.5 Special Considerations and Special Category Land

11.5.1 Where highway stopping up and/or diversion orders are needed, applications for these orders will be made at the appropriate time. Any apparatus of statutory undertakers or utilities will be protected, diverted or replaced as necessary.

11.5.2 There are considered to be no special considerations affecting the Order Land. There are no listed buildings or consecrated land within the Order Land, and nor is there any common land, open space land, or fuel and/or field garden allotments.

- 11.5.3 There is no planning, financial or other impediments to the delivery of this Scheme other than securing ownership of the interests in the Order Land either by agreement or compulsorily.

12. IMPLEMENTATION

12.1 Development Team

- 12.1.1 The Council has decided to affect the implementation of regeneration of the Estate through a partnership arrangement with Acton Gardens LLP. This reflects the strategy recommended by the 2008 Estates Review and enables the Council to retain the strategic direction and outputs of the regeneration programme. Formal documentation in respect of the partnering arrangements and consequent development (known as the Principal Development Agreement) was completed, following lengthy discussions between the parties, on 25th March 2011.
- 12.1.2 The Council worked with its partners, Acton Gardens LLP, along with residents on the Estate via a series of residents' working groups, workshops and public events, and an elected Community Board, and with input from local stakeholders and neighbouring residents to produce a scheme design that has taken into account (as far as possible) the interests of all parties. This is reflected in the masterplan for South Acton that sets the principal parameters for redevelopment of the Estate.
- 12.1.3 As each phase reaches development stage, further resident consultation is conducted to inform reserved matters/detailed planning applications. This includes design sub-group meetings and workshops; public exhibitions, Estate-wide newsletters and presentations to the community board. Residents in blocks earmarked for rehousing into the new phase are specifically targeted as part of these consultations. This is in addition to the usual mandatory consultation conducted as part of the planning application process.

13. PLANNING PERMISSION AND POLICY

13.1 Planning Permission

- 13.1.1 Following extensive stakeholder consultation, a hybrid planning application for the remaining area of Acton Gardens Master Plan was submitted for consideration by Ealing's Planning Service. Outline permission was subsequently granted in December 2018 following the receipt of a positive Stage II response to the application from the Mayor of London and a resolution to grant by Ealing's Planning Committee.
- 13.1.2 A reserved matters application for Phase 7.2 was submitted to Ealing's Planning Service in January 2021 (211783REM) in relation to the construction of one apartment building varying in height from 6 – 12 storeys, comprising 185 new residential homes. The application was approved by the Council's Planning Committee on 19 May 2021 and a decision notice was issued on 24 May 2021.

13.2 Planning Policy

- 13.2.1 **The Scheme is considered to be in compliance with the following national and local policies:**

- (a) National Planning Policy Framework (**NPPF**)
- (i) Paragraph 7 and 8: The NPPF seeks to encourage "sustainable development" and defines this as having 3 dimensions;

- (A) economic – development in the right place,
- (B) social – supporting strong, vibrant and healthy communities and
- (C) environmental: minimising waste and pollutions.

- (b) The development proposed by this Order complies with all three of these elements. It is housing development on an existing housing estate, its objective is to create strong communities, and it will be built to comply with the latest environmentally sustainable standards.

13.2.2 Paragraph 119 of the NPPF requires planning decisions to promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Further, paragraph 121 of the NPPF requires local planning authorities to take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs including identifying opportunities to facilitate land assembly, supported where necessary by compulsory purchase powers, where this can help to bring more land forward for meeting development needs and/or secure better development outcomes.

- (a) The development proposed by this Order achieves the aims of paragraphs 119 and 121 in that effectively uses land to meet the need for homes and will ensure safe and healthy living conditions.

13.2.3 **Paragraph 130 of the NPPF provides that planning decisions should ensure that developments:**

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and support local facilities and transport networks; and
- create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

- (a) The development proposed by this Order achieves the above objectives by providing a high quality and well-designed development and optimising the potential of the site to accommodate and sustain an appropriate amount/ mix of development. The proposed development will improve access to transport and green spaces and will support the arrangements for community involvement.

13.2.4 **Paragraph 92 of the NPPF promotes mixed-use developments, strong neighbourhood centres and active street frontages; safe and accessible environment where crime and disorder do not undermine quality of life or community cohesion; and safe and accessible developments that contain clear and legible pedestrian routes and high-quality public space.**

- (a) The development proposed by this Order achieves the above objectives by providing a mixed-tenure scheme with a combination of family and non-family housing that would be accommodated in a perimeter block. The block would provide a legible street arrangement that would create a safe and well-overlooked public route for direct cars and pedestrians along the public footpaths around the building.

13.2.5 Ealing's Development Strategy 2026, (also known as the Core Strategy DPD) (DS2026) was adopted on 3 April 2012 and sets out a vision for the future development of the borough and covers a 15-year period up to 2026. The proposed development complies with DS2026.

13.2.6 The Council is in the first stages of preparing a new local plan, obtaining views from local people in the Borough however no draft has been published to date.

13.2.7 DS2026, Policy 1.1;

- (a) by 2026, the Council aims to provide 14,000 additional homes; and
- (b) Development of these new homes will be primarily concentrated in, Uxbridge/Crossrail Corridor – particular focus in Acton, Ealing, Southall Town Centres, around key stations at Acton Main Line, Ealing Broadway and Southall; and municipal housing estates including, Copley Close, Green Man Lane, Havelock and South Acton.

13.2.8 The development proposed by this Order will help the Council meet this vision by creating an uplift of additional homes above the existing housing on the site, thereby complying with this policy. Phase 7.2 will provide uplift of 68 additional homes. The development proposed by this Order is taking place in the South Acton Estate, which is directly identified by the DS2026, Policy 1.1(b).

13.2.9 DS2026, Policy 2.3

- (a) To regenerate South Acton to achieve an attractive and popular residential locality, integrating the municipal and owner-occupied residential areas and creating easy pedestrian access to Acton Town centre. This will lead to the provision of 862 additional mixed tenure homes.
- (b) To further explore opportunities for creating a district energy network.

13.2.10 The Scheme proposed by this Order involves the redevelopment of South Acton Estate, creating new and altered streets, open space for use by the residents of the proposed development, and mixed tenure housing. The Scheme would be future proofed for connection the district heating energy network to be constructed as part of the phase 7.2 of the South Acton Estate regeneration masterplan.

13.3 The Scheme complies with the principles of both the MHCLG Estate Regeneration National Strategy (8 December 2016) as well as the Mayor of London's Good Practice Guide to Estate Regeneration – Better Homes for Local People (February 2018).

14. FUNDING

14.1 The regeneration process is being supported by the capital funding detailed below:

14.2 Repurchase of leasehold interests

- 14.2.1 These are being forward funded by the Council's Capital Programme, with land assembly costs being reimbursed to the Council when the developer takes ownership of the land for the phase.
- 14.2.2 On 22nd March 2011 the Council's Cabinet resolved to commit funding to acquire the leasehold interests the Council does not already own on the scheme.
- 14.2.3 That funding remains committed.

14.3 New Affordable Housing

- 14.3.1 Acton Gardens LLP is a Joint Venture between Countryside Properties Ltd and London & Quadrant Housing Trust. It was set up specifically to develop the South Acton Council Estate. 1,925 homes have been completed to date with a further 260 homes currently under construction. Acton Gardens has planning consent for a further 562 homes across Phases 8.1, 7.2 and 9.3/5/6. This is all fully funded by Acton Gardens LLP.
- 14.3.2 London & Quadrant Housing Trust (L&Q) is a not-for-profit Registered Society under the Cooperative and Community Benefit Societies Act 2014 and is committed to providing high-quality homes with a variety of tenures.
- 14.3.3 L&Q holds a net book value of assets of £12.2bn financed by £4.8bn of retained reserves, £2.0bn of Social Housing Grant and £5.4bn of long-term liabilities. The market value of the 95,665 properties that L&Q's owns and manages is estimated at £12.7bn. As a leading entity within the social housing sector which has the strongest financial and operating results, a geographical focus in London and the Southeast and an experienced and well-regarded management team who have a track record of delivering, their funding is primarily restricted to their ability to generate cash flow and capacity to borrow.
- 14.3.4 Countryside Properties (UK) Ltd (CPUK Ltd) is a member of the Countryside Properties PLC group of companies who are ultimately owned by Countryside Properties PLC. Countryside Properties PLC is funded by a combination of shareholder funds and bank debt comprising a revolving credit facility amounting to £300m, expiring in May 2023. CPUK Ltd has met the terms of its banking facilities and loan arrangements and has met all obligations to pay its creditors and employees during the past five years. Funding is allocated to individual projects as required with future funding obligations accurately forecast through internal capital allocation measures.
- 14.3.5 The Council and Acton Gardens LLP have entered into a Principal Development Agreement ("PDA") with obligations on both parties. The PDA provides for financial viability testing for each planning phase. A viability test will be completed following grant of the Phase 7.2 planning application and ahead of a lease being granted by the Council to Acton Gardens LLP. Once vacant possession has been provided the PDA obliges Acton Gardens to begin development.
- 14.3.6 Delivery of Phase 7.2, as in the previous phases on South Acton, is being fully funded by Acton Gardens.
- 14.3.7 The Council's evidence (as summarised above) shall show that there are a number of source funding available for the delivery of the Scheme including:
 - (a) Acton Gardens development activity is funded largely through its own retained earnings

- (b) Countryside have access to a £300m revolving credit facility which is provided by a syndicate of leading banks; and
- (c) L&Q have affordable housing grant for affordable housing to be constructed within this phase

14.3.8 The funding provided by L&Q at paragraph 14.3.7 (c) is time barred and subject to being lost if the tight timescales are not met.

14.3.9 As demonstrated above at paragraph 14.3.7, there substantive sources funding available for both acquiring the land (which has a positive land premium generated by the Scheme) and implementing the Scheme for which the land is required.

15. HUMAN RIGHTS CONSIDERATIONS

15.1 The Human Rights Act 1998 requires (amongst other things) that every public authority must act in a manner which is compatible with the European Convention for the Protection of Human Rights and Fundamental Freedoms ("Convention"). The parts of the Convention rights which should be considered in the course of the making of the Order and leading up to the confirmation of the Order are set out below: Article 1 of the First Protocol and Articles 6 and 8 of the Convention are of particular relevance.

15.2 Relevant parts of Article 1 of First Protocol of the Convention provide:

15.2.1 "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".

15.3 Relevant parts of Article 8 of the Convention provide:

15.3.1 "(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 in accordance with the law and is necessary in a democratic society in the interest of ... the economic well-being of the country..."

15.4 The Council is permitted to control the use of property in accordance with the general interest and considers the exercise of powers of compulsory purchase in accordance with statute is a proportionate and justified course of action to secure in the public interest the economic, social and environmental well-being which will follow the implementation of this major redevelopment scheme.

15.5 The Council considers that there is a compelling case in the public interest that the Order Land can be acquired in order to achieve the purposes described in this Statement. 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 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. In the circumstances, if the Order is confirmed, the compulsory acquisition of the Order Land will not conflict with Article 1 of the First Protocol or Article 8 of the Convention.

15.6 Relevant parts of Article 6 provide that:

15.6.1 *"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".*

15.7 So far as this Order is concerned, any owner, lessee, tenant or occupier of land included in the

Order has had the opportunity to make an objection (the development proposals having been extensively publicised, and consultation taken place). Any objectors will also have the opportunity to appear before a person appointed by the Secretary of State before a decision is made as to whether or not the Order should be confirmed.

- 15.8 Those persons directly affected by the Order will also be entitled to compensation proportionate to any losses that they may incur as a result of any compulsory acquisition made pursuant to the Order.
- 15.9 Application of the principle that interference with Convention rights must be proportionate and justified in the public interest
- 15.9.1 In promoting this Order, the Council has carefully considered the balance to be struck between individual rights and the wider public interest.
- 15.9.2 To the extent that the Order would affect those individual rights, the Council considers that proposed interference with them would be in accordance with the law, necessary in the public interest and proportionate.
- 15.9.3 All of those persons whose rights under Article 8 of the Convention and under Article 1 of the First Protocol of the Convention would be affected by the Order will have an opportunity to object to the Order and to have their objection considered at a fair and public hearing, in accordance with their rights under Article 6 of the Convention.
- 15.9.4 Appropriate compensation will be made available to those entitled to claim it under the relevant provisions of the statutory Compensation Code.
- 15.9.5 In addition, having regard to the provisions of the Town and Country Planning Act 1990 and the Guidance, the Council considers that the Order Land is both suitable for and will facilitate the carrying out of development, redevelopment and improvement and will, for the reasons explained in this Statement, make a positive contribution to the promotion or achievement of the economic, social and environmental wellbeing of its area.
- 15.9.6 It is therefore considered that the Scheme and the Order will not unduly infringe the rights of individuals which are provided by the European Convention on Human Rights.

16. EQUALITIES ACT 2010

- 16.1 In addition to the Human Rights Act the Acquiring Authority is required to comply with the Equality Act 2010.
- 16.2 This provides protection from discrimination in respect of a certain protected characteristics namely: age, disability, gender re-assignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. Pursuant to section 149 of the Equality Act 2010, the Council is subject to the Public Sector Equality Duty, which requires the Council, when exercising their powers, to have due regard to the need to:
- 16.2.1 eliminate unlawful discrimination, harassment and victimization and other conduct prohibited by the Equality Act 2010;
- 16.2.2 advance equality of opportunity between people who share a protected characteristic and those who do not; and
- 16.2.3 foster good relations between people who share a protected characteristic and those who do not.

- 16.3 The Council has undertaken an equality impact assessment to assess the impact on groups with protected characteristics arising from the Order and has taken those matters into account when dealing with the parties affected by the Order. No adverse effects on those with protected characteristics were found at that time. The Equalities Impact Assessment and Analysis has and shall be kept under review in respect to objections raised.
- 16.4 The Council has engaged and consulted with all whom have interest in the Order and Scheme. There are four remaining interests where despite attempts from the Council to acquire the land and interests by agreement the Council are yet to achieve this result. The Council will continue to engage and consult with anyone who has an interest and is affected by the Order.

17. PUBLIC CONSULTATION

- 17.1 Extensive consultations on the proposals for the regeneration of the Estate took place as part of the development of the revised Masterplan over a 5-month period between November 2017 and March 2018. Consultation included meetings with local Ward Councillors, Community Board meetings, design sub-group meetings, public exhibition events and specific group consultations, including with allotment holders and the Mill Hill Conservation Area.
- 17.2 Consultation for Phase 7.2 specifically took place via an online public exhibition events (due to COVID-19 restrictions) with all information publicly accessible online also, in the community centre and youth centre, via use of sms text messaging service, proposals placed on hoarding by Central Plaza at Phase 6 and in notice boards across Acton Gardens and the existing South Acton Estate and via Community Board consultation meetings. These took place between September and December 2020.

18. THE VIEWS OF GOVERNMENT DEPARTMENTS

There have been no views expressed by Government departments about this proposed development of the Order Land.

19. CONCLUSION

- 19.1 The regeneration of the South Acton Estate is among the most significant regeneration initiatives currently being progressed in West London. Phase 7.2 will involve the demolition of existing buildings within the phase to be followed by new build, to achieve a higher density mixed tenure environment expected to demonstrate a very high standard of design and sustainability.
- 19.2 Once demolition has taken place the site will be redeveloped by Acton Gardens LLP, who have already completed Phases 1 – 7.1 of the schemes and are currently constructing Phases 9.1, 9.2, 9.4 and 8.1. They will also carry out all remaining phases of the regeneration programme through to completion.
- 19.3 The Council considers the use of the compulsory purchase powers, and its confirmation would meet the tests in the Guidance, for the reasons which have been set out throughout this statement and which are highlighted below
- 19.4 The proposed development will contribute towards the promotion and improvement of the economic, social and environmental well-being of the area. This will be accomplished through:
- 19.4.1 Introducing a mix of tenure types into an area of current mono-tenure, so increasing the local housing offer;
 - 19.4.2 Replacing the current bed size mix with one tailored to suit the needs of residents who are to reside there, and for the wider population when re-let;

- 19.4.3 Replacing poorly designed and laid-out blocks with new homes that will offer much improved amenity, and will have extremely low cost-in-use;
- 19.4.4 Increasing the quality and delineation of public and private spaces, and providing good safety and security; and
- 19.4.5 Incorporating the latest features for environmental sustainability.
- 19.5 The financial viability of the scheme is assured through the selection of a developer partner for the scheme with a binding Principal Development Agreement incorporating an unconditional undertaking to carry out the phase of the scheme relating to the Order Land.
- 19.6 The Council is satisfied that the purpose for which the land is being acquired cannot be achieved by other means.
- 19.7 The Regeneration Scheme as a whole and Phase 7.2 itself, will not only produce a very substantial qualitative and quantitative housing gain but with the benefit to the Estate of the many other improvements referred to above will greatly contribute to the economic, social and environmental well-being of the area. For Phase 7.2 to be implemented, vacant possession of all buildings will be required for demolition prior to construction of the proposed new homes.
- 19.8 It is envisaged that the first of the new properties would become available from June 2025 subject to vacant possession.
- 19.9 Notwithstanding the continuing negotiations that are taking place to purchase outstanding interests by agreement, the use of compulsory purchase powers may also be necessary to ensure that such vacant possession is secured and that the Scheme, which will be for the benefit of all Estate residents, can be fully implemented.
- 19.10 With regard to the factors set out in paragraph 106 of the Guidance the Council's position, set out above and to be demonstrated in evidence is that:
- 19.10.1 the Order Land is being acquired for the purpose of policy 1.1 pursuant to the Development Strategy 2026, Development Plan Document adopted 03 April 2012 forming part of Ealing's current Local Plan
- 19.10.2 by provision of constructing and delivering affordable housing as defined within the NPPF, offering job opportunities, and creating a modern, healthy great place to live (Cabinet Report 16 July 2019) the redevelopment will facilitate and contribute to the achievement of promotion or improvement of the economic, social or environmental well-being of the area
- 19.10.3 alternative proposals such as refurbishment to 1950's flats to bring them in line with current quality flats were assessed to be unviable. This option would greatly diminish the much-needed additional affordable housing units/habitable rooms which will be provided by way of delivering this Scheme.
- 19.10.4 As set out above paragraph 14.3.7 the scheme is viable with funding available from Acton Gardens LLP (Countryside and L&Q). The affordable housing funding provided by GLA is subject to strict time limit and whilst the Council continues to negotiate acquisition of the land interest by private treaty, it has become expedient in the interest securing the GLA funding for delivery of affordable housing for Council to seek confirmation of the Order.

20. INQUIRIES PROCEDURE RULES

- 20.1 This Statement of Case is for making the Order and is intended to discharge the Council's obligations under the Compulsory Purchase (Inquiries Procedure) Rules 2007 (SI 2007 No. 3617).
- 20.2 The Council reserves its rights to put forward further supporting material, plans and documents in addition to this Statement of Case in support of its position. A list of these, together with the addresses at which they can be inspected, will be notified to the public in accordance with the relevant Rules.

21. SUMMARY OF OBJECTIONS AND COUNCIL'S RESPONSE

- 21.1 There are two objections for the Secretary of State to consider in respect of the Order. The objections are summarised in the following paragraphs together with a summary of the Council's response. The Council reserves the right to expand upon and add to the matters summarised below, when submitting evidence to the public inquiry to be held in respect of the Order.

21.2 **Objection 1 dated 14 April 2022 from an occupier of a property within Belgrave Close affected by the Order:**

21.2.1 **Ground 1 (page 1):** *It is not clear why the Acquiring Authority considers it necessary to acquire the home where the objector has been living for 14 years with their family. The exercise of the CPO powers is ultra vires on the basis that the decision may result in the objector becoming homeless and article 8 of the Human Rights Act has not been considered.*

21.2.2 **Response:** A sale value for the Objector's property was previously agreed and the Council was due to complete the sale in January 2022 but the sale fell through. The Objector has a qualifying interest by virtue of a matrimonial charge which remains registered on the title register. As a result, the Council is unable to complete the transaction to acquire the property until the matrimonial charge has been discharged/withdrawn.

21.2.3 Compensation payable for the compulsory acquisition of an interest in land is based on the 'equivalence principle' (i.e., that the owner should be paid neither less nor more than their loss). The value of land taken is the amount which it might be expected to realise if sold on the open market by a willing seller. The Council has received independent valuation advice from an accredited surveyor on the current market value of the property.

21.2.4 In addition to the legislative requirements in relation to compensation for the Order and its effect, the Council has also offered to assist those residents with a qualifying interest to continue to reside in the borough or even the Estate itself. These options are detailed at Section 5.3 of this Statement above. The Objector has rejected the Council's assistance.

21.2.5 The Council has made meaningful attempts, informed by professional advice, to acquire the Order Land by private treaty and will continue to do so.

21.2.6 As set out in section 15 of this Statement, the Council has considered Article 8 of the Convention on Human Rights carefully. The Council considers the exercise of powers of compulsory purchase in accordance with statute is a proportionate and justified course of action to secure the public interest the economic, social and environmental well-being which will follow the implementation of this major redevelopment scheme.

21.2.7 **Grounds 1, 2 and 3 (page 2), 6, 10, 19 (page 5 of 9), 21 and 22 (page 6 of 9):** *To forcibly*

evict us after the length of time that we have lived at the Order land would be harsh and oppressive. Forcing us to leave our home disturbs our peaceful life and compromises our human rights. The Council has failed to consider the rights of children as set out in the Convention on Rights of the Child and the scheme has affected children, their family relationships, education, sports activities and friends and has failed to give adequate consideration to the requirement for the right to respect for private and family life in Article 8 of the ECHR and has failed to consider the wider implications of Article 8 and how the rights relate to community and social involvement and relationships as part of the private life of a person. There is no evidence that the Acquiring Authority has addressed those rights within the consideration of the Scheme which is a breach of Ministerial Guidance.

21.2.8 Response: As set out in section 15 of this Statement, the Council has considered Article 8 of the Convention on Human Rights carefully and in accordance with the requirements of the Ministerial Guidance. The Scheme will provide community facilities, education and youth facilities, employment opportunities and significantly improved public areas which will benefit families and children on the Estate. The Council considers the exercise of powers of compulsory purchase in accordance with statute in the circumstances outline above is a proportionate and justified course of action to secure in the public interest the economic, social and environmental well-being which will follow the implementation of this major redevelopment scheme.

21.2.9 In consideration of qualifying interests and their children the Council has offered to reaccommodate those with qualifying interest in properties within the Estate so that the children of the qualifying residents can continue to attend their schools, make use of the community facilities and maintain their established networks. Shared Equity offers have been made to all qualifying residents to assist with affordability of the residential units within the Estate. The Council in making this Order has had particular regard to meeting the alternative housing needs of the affected households and the rights of individual and rights to compensation in accordance with the relevant legislation. It is considered to be both necessary and proportionate in that the land to be acquired is the minimum required to deliver Phase 7.2.

21.2.10 Ground 1 and 2 (part)(page 3 of 9): *The acquiring authority has failed to give adequate consideration to is the requirement for the right to respect for private and family life as set out in Article 8 of the European Convention on Human Rights and Fundamental Freedoms, under which every person (1) has the right to respect for his private and family life, his home and his correspondence and that (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 for a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. The Council has failed to consider the wider implications of Article 8 and how the rights thereunder relate to community and social involvement and relationships as part of the private life of a person. The acquiring body has failed to consider the Human Rights of the Objector, particularly under article 8 of the ECHR as set out above and under Article 1 of the First Protocol, the right to the peaceful enjoyment of property. There is no evidence that the ACQUIRING BODY has addressed those rights within the consideration of the present CPO or within the overall scheme. The failure to give any or any adequate consideration to issues of Human Rights is again a clear breach of Ministerial Guidance and demonstrates that the Council is not following the constitutional principle of acting in accordance with the law.*

21.2.11 Response: See section 15 of this Statement which illustrates that the Council has given adequate consideration not only to Article 8 of the EHCR, but also to Article 1 of the First Protocol. The Council considers that there is a compelling case in the public

interest that the Order Land can be acquired in order to achieve the purposes described in this Statement. It is the Council's view that in the circumstances, if the Order is confirmed, the compulsory acquisition of the Order Land will not conflict with Article 1 of the First Protocol or Article 8 of the Convention. The Council has at all times in the progressing of the Order acted in accordance with the law and the Ministerial Guidance.

21.2.12 The Council has ensured to maintain the principle of equivalence as set out within the Guidance and legislation and has had due regard to the rights protected by the ECHR. After careful consideration, the Council considers interference with these rights to be in accordance with the law and necessary in order to allow the significant social, economic and environmental benefits of the scheme to come forward, and is only exercising its powers of compulsory acquisition as a last resort.

21.2.13 **Ground 2 (part) (page 3 of 9) and 3:** *We believe regeneration should be something beneficial for us too. However, in this case, we see the attempt to take our home, our life, and make us being homeless. Our interest is in our home; if it is taken from us, it should be replaced with a better or equivalent home in the same area. The CPO notice or any consultation prior to that has not made sufficient ground on how the demolishing and rebuilding of my home would make my and my other fellow residents' lives better. Would paying more in rent and mortgage be considered regeneration?*

21.2.14 **Response:** The Objectors have been provided with the opportunity to take up equity share arrangements in one of the new properties being built on the Estate. Objectors have been offered homes that are appropriate for their household needs which would allow the Objectors to have an equivalent new home in the same area. To date, the Objectors have not taken up these offers. The Council will continue to meaningfully engage with the Objectors to acquire the properties in question via agreement. As set out in paragraphs 7.4, 7.5 and section 10 of this Statement, the scheme offers substantial environmental and social benefits, including the provision of affordable housing.

21.2.15 **Ground 4, 23, 26:** *The Acquiring Authority has not met the obligations of the Equality Act 2010. There is no evidence that the Acquiring Authority has considered the impact on Black, Asian and Ethnic minorities. The Equality Impact Assessment is outdated and has not been updated. The document specifies the Council has carried out an Equality Impact Assessment but has not specified any updates other than the outdated impact assessment. The authority has not shown any positive action to minimise the effect of displacing existing residents and has not provided any option of replacing our home when they forcibly displace us from our home.*

21.2.16 **Response:** The Council has undertaken an Equality Impact Assessment Analysis (EIAA) in accordance with the provisions of the Equality Act 2010 and consequently has had due regard to the need for the Council to comply with its Public Sector Equality Duty. Any negative impacts of Council decisions on individuals and groups with protected characteristics have been identified and where necessary appropriate actions have been taken. Any opportunities to advance equality within the Scheme design or any decisions taken by the Council have also been carefully considered. It is therefore not accepted that the Council has failed to take into account its duty when determining whether or not to proceed with the Scheme and Order. Further this is a continuing duty and thus the Council will continue to undertake periodic review of its duty at various points in the Scheme and after the inquiry. The Council's position on this is further discussed at Section 16 of this Statement. The Council will provide further detail regarding the EIAA undertaken through evidence.

- 21.2.17 The Council has taken into consideration its findings of the EIAA and has gone above and beyond the necessary legislative compensation guidance to offer to the Objectors alternatives such as Shared Equity to allow them to remain on the Estate allowing the Objectors continued access to their jobs, schools and networks. These offers are and shall continue to be offered to the remaining leaseholders within the Order Land subject to engagement by the qualifying interested parties.
- 21.2.18 **Grounds 5, 7 and 8:** *The Acquiring Authority is supposed to consider alternatives but no chance is given to refurbishment. Our home does not need demolishing. As residents we were not asked whether we prefer refurbishment or demolishing. According to the Mayor of London's good practice guide there should have been a ballot.*
- 21.2.19 **Response:** The Council has complied with the Mayor of London's Good Practice Guide to Estate Regeneration. The Scheme was developed through full and transparent consultation and resident involvement. As set out in section 17 of this Statement, the Council has undertaken extensive consultation in respect of the proposals for the regeneration of the Estate, where the residents had ample opportunity to provide their views on the proposals, including any preference for refurbishment rather than demolition. Alternative proposals such as refurbishment to 1950's flats to bring them in line with current quality flats were considered but assessed to be unviable and would diminish the much-needed additional affordable housing units/habitable rooms which will be provided by way of delivering this Scheme.
- 21.2.20 The current scheme was well underway when the Mayor's requirement for landlords seeking GLA funding for estate regeneration projects which involve the demolition of social housing to show resident support through a ballot was introduced and therefore was and remains exempt from this requirement pursuant to transitional arrangements.
- 21.2.21 **Grounds 9 and 11:** *The offer is not given on a like for like basis and therefore the acquiring authority has failed in its duty to undertake reasonable steps to negotiate with affected landowners and has instead involved compulsory purchase powers which should only be used as a last resort. Notwithstanding the package of support measures referred to by the Acquiring Authority and its claims that leaseholders will be placed in an equivalent position, the Objectors have not been offered or seen any alternative accommodation in the local area which would be suitable and offer the same advantages as their present homes, without being financially disadvantaged or losing the benefits they currently enjoy with their leasehold tenure.*
- 21.2.22 **Response:** The Council has made, and continues to make, every effort to negotiate with affected landowners in order to avoid exercising its compulsory purchase powers as set out in section 5. The Objectors have been offered homes in the Estate appropriate to their needs via the shared equity scheme but have not taken up these offers to date.
- 21.2.23 It is only now at a point where the Council has been unable to agree terms of acquisition for the four remaining land interests that the Council as a last resort finds it expedient and sees a compelling case in the public interest to provide much needed affordable housing, to seek confirmation of the Order.
- 21.2.24 The Council will pay to the parties affected by this compulsory purchase order the full open market value for their property and, where so entitled, home loss payments, basic loss payments and occupiers loss payments and reasonable disturbance compensation, (such as removal expenses and reconnection costs).
- 21.2.25 **Ground 12:** *The Acquiring Authority has failed in its duty to undertake reasonable steps*

to negotiate with affected homeowners and has instead invoked compulsory purchase powers, which should only be used as a last resort.

21.2.26 Response: As set out above, the Council has made, and continues to make, every effort to negotiate with affected landowners in order to avoid exercising its compulsory purchase powers as set out in section 5 of this Statement. The Council will continue to engage and consult with anyone who has an interest and is affected by the Order. As noted above, the Council has previously agreed heads of terms (with the registered proprietor) of the property in question but the negotiations have stalled due to a matrimonial dispute between the residents of the property.

21.2.27 Grounds 13 and 14: *The Objectors question whether it is necessary to demolish their blocks to achieve the Council's regeneration objectives and whether the vast sums of public money assigned to the regeneration wouldn't be better spent on refurbishment. The blocks occupied by the Objectors are in a prime location, with ample green space, good access to local shops and excellent accessibility to public transport. It is believed that the blocks are sound they would benefit from a "face-lift", as has happened elsewhere, but there is no reason to destroy buildings with a reasonable length of useful life.*

21.2.28 Response: As set out in paragraph 21.2.20 above, refurbishment was considered but was found to be unviable and would diminish capacity to provide much needed additional affordable housing. Further, refurbishment would not provide the same opportunities that the regeneration scheme will deliver - genuinely affordable homes and good quality homes, work opportunities for local residents, safety improvements and alleviation of overcrowding.

21.2.29 Grounds 15 and 20: *The Acquiring Authority has not considered the environmental impact of continuing with the original regeneration scheme as opposed to refurbishment of existing structures and more environmentally conscious and focused approach to the surrounding environment. The existing buildings contain a significant amount of embodied carbon CO2 already admitted during construction. The demolishing of these buildings and the structure of their replacement would result in tens of thousands of tonnes of unnecessary carbon emissions. The objectors consider that the Acquiring Authority should give further consideration to the option of refurbishment.*

21.2.30 Response: The Council and Acton Gardens LLP are pursuing a Green Energy policy that will include building to the Code for Sustainable Homes Level Four and achieves a 35% on-site reduction in carbon emissions above Part L requirements, with a carbon offset payment to achieve net zero carbon, in line with London Plan requirements. In addition, the Scheme will provide for affordable and green energy supplies for residents in the new homes. The overall environmental benefits and improvements of the Scheme outweigh any harm that will be caused.

21.2.31 Ground 16: *It is questioned whether the Order will benefit social wellbeing as the redevelopment of the estate will result in the loss of nearly 400 social rented homes and the replacement social rented homes are being provided at significantly higher rent levels.*

21.2.32 Response: As part of its aims for the regeneration of the Estate, the Council is seeking to ensure that there is no net loss in the supply of affordable rented housing, together with a reprofiling of the unit size mix to ensure more family-sized homes, a shortage of which has been identified across all tenure types in the borough of Ealing. The regeneration programme effectively enables households to be moved to homes more suitable for their needs through new provision, whilst conserving the very limited

number of homes available elsewhere in the borough. The Council will ensure that such affordable housing aims are achieved, using its powers as planning authority, as vendor of the land and through its role as one of the strategic partners in the regeneration. 50% percent of all new homes will be 'affordable' – 20% percent at Shared Ownership tenure and 80% at London Affordable Rent. Section 106 obligations will ensure that affordable housing is secured in perpetuity as such. There will be no loss of affordable rented housing in relation to habitable rooms when the project is complete, and a better mix of unit size.

21.2.33 Grounds 17, 25 and 26: *The scheme underlying the CPO fails to comply with several key local plan policy requirements like affordable housing, viability, renewable energy and sustainability.*

21.2.34 Response: As set out in section 13 of this Statement, the Scheme is considered to be fully in accordance with national and local policy and government guidance.

21.2.35 Ground 18: *The acquiring authority has failed to demonstrate that the CPO is necessary.*

21.2.36 Response: Careful consideration has been given, in accordance with the government guidance, as to whether the Scheme should be made and whether there is a compelling case in the public interest to do so. The Council made the Order because it is satisfied that the purposes for which the Order is made justifies the interference with the human rights of those with an interest in the Order Land because the economic, social and environmental benefits and improvements of the Scheme outweigh any harm that will be caused.

21.2.37 Ground 23, 27 (part): *LBE has further failed to consider its duties according to section 1 of the Equality Act 2010 "The Public Interest Test and the Human Rights Act 1998".*

21.2.38 Ground 26: *The CPO/notice was invalid as an incorrect postcode was used and it was dated incorrectly (dated 19 January but received on 29 January) and therefore there was less than 21 days to object contrary to section 12 of the Acquisition of Land Act 1981. The timescales for objections were unclear and the deadline for submission of objections fell on a public holiday. I could not find any notice containing the address and contract details for the levelling up department*

21.2.39 Response: Due to the pandemic the Council has had to adjust its work practice becoming reliant on technology as a result of remote working. The Council endeavours to maintain business as usual and accepts it has faced challenges in dealing with its IT infrastructure. As a result, it came to the Council's attention following service of notices of the Order on affected persons that one of the annexures to the notice (Form 8) was missing. However, once the error was identified, action was taken by the Council to remedy the position and the notification process was conducted again. The Council adequately addressed this issue by re-serving the notices and explaining the issues by way of an explanatory addendum in its letter to all qualifying interests. The initial period for objection (from 19 January 2022 to 16 February 2022) was extended by letter dated 18 March 2022 following identification of the administrative error to 15 April 2022, a total of approximately 3 months. Sample copies of these letters (with the residents details removed) are attached at Appendix 5. The Objector submitted an objection on both occasions, the latter objection being not substantively different to their initial objection. No persons with a qualifying interest were disadvantaged through this error as the consultation process was restarted and due time for responses was allowed.

21.2.40 Ground 27 (part): *The Acquiring Authority's actions are ultra vires as they have failed*

to establish a lawful basis for confirmation of the order because the notice was unclear in terms of the timescales for objections, a lack of alternative plans and adequate consultation, lack of transparency (for example administration errors), failure to follow the principles of lawful and good administration, environmental impact demolition and the necessity of demolition.

21.2.41 **Response:** A sample copies of the amended letters (with details of the residents removed) served on affected persons are attached at Appendix 5 to this Statement. The notice, only a two page document, clearly sets out the omission and the amended dates for submission of objections.

21.2.42 As already established in paragraph 21.2.20 above, the Council has given due consideration to alternatives and has engaged in extensive consultation in regards to the Scheme. It has acted in accordance with the law, national and local policy and guidance in pursuing the Scheme and making the Order.

21.2.43 In terms of the environmental impact of demolition the Council and Acton Gardens LLP are pursuing a Green Energy policy that will include building to the Code for Sustainable Homes Level Four and a commitment to least a 34% reduction in carbon emissions from the new development, with the scheme achieving a 35% reduction, with a carbon offset payment to achieve net zero carbon, in line with London Plan requirements. In addition, the Scheme will provide for affordable and green energy supplies for residents in the new homes. The overall environmental benefits and improvements of the Scheme outweigh any harm that will be caused. The Council did explore alternative proposals such as refurbishment to 1950's flats rather than demolition as set out in this Statement but these proposals were assessed to be unviable and would reduce the provision of additional affordable housing units/habitable rooms which will be provided through this Scheme. Demolition and redevelopment is therefore considered necessary.

21.3 **Objection 2 dated 15 April 2022 submitted on behalf of an occupier of Avenue Road.**

21.3.1 **Grounds 1, 2 and 6:** *None of the Objectors wishes to be uprooted from their homes. To forcibly evict them after the length of time they have lived at the Order Land would be harsh and oppressive which is against their human right. The Objectors have lived in Acton Gardens for many years (one for about 32 years, another for over 20 years (12 years being spent at their property). The Acquiring Authority has failed to give adequate consideration requirement to for the human right to respect for private and family life as set out in Article 8 of the ECHR and under Article 1 of the First Protocol. There is no evidence that the Acquiring Authority has addressed these rights within the consideration of the present CPO or the overall scheme.*

21.3.2 **Response:** As set out in section 15 of this Statement and paragraphs 21.2.6, 21.2.8 -9, and 21.2.10 -11 above, the Council has carefully considered the rights within Article 8 of the ECHR, and Article 1 of the First Protocol. It is considered that the Scheme and the Order will not unduly infringe the rights of individuals provided by the ECHR and First Protocol. Those persons directly affected by the Order will also be entitled to compensation proportionate to any losses that they may incur as a result of any compulsory acquisition made pursuant to the Order.

21.3.3 **Ground 3:** *Some of the Objectors are very advanced in years. A forced move at this stage could be particularly traumatic for older residents and detrimental to their physical and mental well-being*

21.3.4 **Response:** Again, the impact of the Scheme and the Order of existing residents has been carefully considered by the Council. The Council has made, and continues to

make, every effort to negotiate with affected landowners in order to avoid exercising its compulsory purchase powers as set out in section 5. The Objectors have been offered homes in the Estate appropriate to their needs via the shared equity scheme but have not taken up these offers to date. Further, the Scheme will provide much needed housing for persons over 55 years of age as set out in paragraph 10.3 of this Statement.

- 21.3.5 **Grounds 4:** *Notwithstanding the package of support measures referred to by the Acquiring Authority and its claims that the leaseholder will be placed in an equivalent position, the Objectors have not been offered or seen any alternative accommodation in the local area which would be suitable and provide the same advantages as their present homes, without being financially disadvantaged or losing the benefits they currently enjoy with their leasehold tenure.*
- 21.3.6 **Response:** Negotiations with the Objector are ongoing with the most recent offer being made in February 2022. The benefits offered by the Scheme summarised in paragraphs 7.4 and 7.5 and section 10 of this Statement are significant and will greatly add to the economic, social and environmental well-being of the whole Estate.
- 21.3.7 **Ground 5:** *The Acquiring Authority has failed in its duty to undertake reasonable steps to negotiate with affected homeowners and the tenant. Instead, it has invoked compulsory purchase powers, which should only be used as a last resort.*
- 21.3.8 **Response:** This ground is the same in substance as Ground 12 raised in Objection 1. The Council therefore refers to its response in paragraph 21.2.26 above.
- 21.3.9 **Ground 7:** *The CPO notice or any consultation prior to that has not made sufficient ground on how the demolishing and rebuilding of my home would make me and my other fellow residents' lives better, on the contrary, residents are forced to pay more in bills, rent and mortgage*
- 21.3.10 **Response:** The extensive benefits of the Scheme are set out in sections 7.4 and 7.5 of this Statement. The scheme will not result in any loss of affordable rented housing in relation to habitable rooms when the project is complete and will provide benefits by way of additional housing, community facilities, employment opportunities, transport infrastructure and improve landscaping and public areas.
- 21.3.11 In addition, the central plant serving all existing and forthcoming phases at Acton Gardens is proposed to be located within Phase 7.2 which will include an air source heat pump installation with a total capacity of around 1700kW mounted at roof level. The heat pumps have the potential to reduce the emissions on the existing phases by 43% and on new phases by 13.5%. This will result in reducing future fuel costs for the residents at Acton Gardens.
- 21.3.12 **Ground 8:** *LBE has surrounded wood fences all around our home and left view gaps to access, and we feel like a prison as we are all scarred as they took our view and feel they have taken our freedom and they have taken the peaceful living of our life*
- 21.3.13 **Response:** The Council and the developer have sought to minimise the impacts of construction on residents so far as is practicable. Construction impacts were monitored by way of a Construction Management Plan condition attached to the planning permission and enforceable by the Local Planning Authority.
- 21.3.14 **Ground 9:** *This is the second time we are making the Objection; finding legal advice is difficult and finding affordable specialist lawyers is complex and the experience has been traumatic, especially for the mother and children*

21.3.15 **Response:** The Council is using every effort to reach agreement with the objector in order to acquire the outstanding land interest and will continue to do so. In addition, the Council has allocated a single point of contact who (as permitted by the qualifying interest):

- keep all qualifying interest updated to the progress of the compulsory purchase process
- deal with any issues, queries or concerns raised by qualifying interest
- offer advice and assistance to affected occupiers in respect of their relocation, funding for legal fees, surveyors' reasonable costs and costs incurred as a result of the relocation.

21.3.16 **Ground 10:** *The Compulsory Purchase Code requires a CPO to contribute to the improvement of the economic, social or environmental well-being of the area. On the contrary, CPO and regeneration had the opposite effect on the residents affected.*

21.3.17 **Response:** As set out in section 7.4 and 7.5, the proposed scheme offers significant social, economic and environmental benefits for residents and the wider community.

21.3.18 **Ground 11:** *The Objectors question whether it is necessary to demolish their blocks to achieve the Council's regeneration objectives and whether the vast sums of public money assigned to the regeneration wouldn't be better spent on refurbishment*

21.3.19 **Response:** The Scheme was developed through full and transparent consultation and resident involvement. As set out in section 17 of this Statement, the Council has undertaken extensive consultation in respect of the proposals for the regeneration of the Estate, where the residents had ample opportunity to provide their views on the proposals, including any preference for refurbishment rather than demolition. Alternative proposals such as refurbishment to 1950's flats to bring them in line with current quality flats were considered but assessed to be unviable and would diminish the much-needed additional affordable housing units/habitable rooms which will be provided by way of delivering this Scheme.

21.3.20 **Grounds 12 and 16 (part):** *The blocks occupied by the Objectors are in a prime location, with ample green space, good access to local shops and excellent accessibility to public transport. It is believed that the blocks are sound They would benefit from a "face-lift", as has happened elsewhere, but there is no reason to destroy buildings with a reasonable length of useful life. This is particularly relevant in light of the current climate crisis and the government's ambitious carbon reduction policies. The existing buildings contain a significant amount of 'embodied carbon' (CO2 already emitted during construction) The demolition of these buildings and construction of their replacements would result in tens of thousands of tons of unnecessary carbon emissions. The Objectors consider that the Acquiring Authority should give further consideration to the option of a refurbishment of this part of the Estate.*

The Order implies that our block would be demolished to create dwellings for others. However, we have a very good home with garden perfect for my family. There is structurally nothing wrong with it, and the Acquiring Authority has not supplied any compelling reason why it should be demolished. Additionally, it has not taken sufficient consideration and consultations on the real cost of demolition of building to the environment

21.3.21 **Response:** As previously set out, the Council and Acton Gardens LLP are pursuing a

Green Energy policy that will include building to the Code for Sustainable Homes Level Four and a commitment to least a 34% reduction in carbon emissions from the new development, with the scheme achieving a 35% reduction, with a carbon offset payment to achieve net zero carbon, in line with London Plan requirements. In addition, the Scheme will provide for affordable and green energy supplies for residents in the new homes. The overall environmental benefits and improvements of the Scheme outweigh any harm that will be caused. Consideration was given to alternative proposals such as refurbishment rather than demolition as set out in this Statement but these proposals were assessed to be unviable and would reduce the provision of additional affordable housing units/habitable rooms which will be provided through this Scheme. Demolition and redevelopment is therefore considered necessary.

21.3.22 Careful consideration has been given as to whether the Scheme should be made and whether there is a compelling case in the public interest to do so. The Council is satisfied that the purposes for which the Order is made justifies the interference with the human rights of those with an interest in the Order Land because the economic, social and environmental benefits and improvements of the Scheme outweigh any harm that will be caused.

21.3.23 **Ground 13:** *The Objectors also question whether the compulsory purchase order will result in any social well-being benefits. It is understood that the redevelopment of the estate will result in the loss of nearly 400 social rented homes and that the replacement social rented homes that are being provided will incur significantly higher rent levels. Given the acute shortage of social rented homes in the borough and the growing number of households on the Council's housing waiting list, the Objectors question the Acquiring Authority's ability to claim that the compulsory purchase order will improve the improvement of social well-being.*

21.3.24 **Response:** A similar objection has been raised in Objection 1. As per the Council's response at paragraph 21.2.32, 50% percent of all new homes will be 'affordable' – 20% percent at Shared Ownership tenure and 80% at London Affordable Rent. Section 106 obligations will ensure that affordable housing is secured in perpetuity as such. There will be no loss of affordable rented housing in relation to habitable rooms when the project is complete, and a better mix of unit size.

21.3.25 **Ground 14:** *The Compulsory Purchase Code requires the purpose for which the land is being acquired to fit in with the adopted Local Plan for the area. The Objectors submit that the scheme underlying the CPO fails to comply with several critical Local Plan policy requirements like affordable housing viability, renewable energy and sustainability The Objectors will supply more information on this and other grounds of objection in the Statement of Case before the CPO hearing. This objection was prepared less than 24 hours after the initial CPO notice after notice was served Making the objection had been difficult, and getting an experienced special: lawyer to support me with objecting had been difficult. With the second CPO notice, the language is still confusing, and the deadline of 16 February is still included, not updated with my neighbours and lodges, We saw the deadline of 15 of April after we showed the notice to the resident's group association in the area.*

21.3.26 **Ground 15:** *The acquiring authority has not provided any evidence of up to date Equality Impact Assessment as required by the Equality Act 2010. More importantly, the acquiring authority had not shown any positive action to minimise the effect of displacing existing residents and has not provided any option of replacing our home when they forcibly displaced us from our home.*

21.3.27 **Response:** The Council has undertaken an Equality Impact Assessment Analysis (EIAA)

in accordance with the provisions of the Equality Act 2010 as set out in section 16 of this Statement. Any negative impacts of the Council's decisions on individuals and groups with protected characteristics have been identified and where necessary appropriate actions have been taken. Any opportunities to advance equality within the Scheme design or any decisions taken by the Council have also been carefully considered. It is therefore not accepted that the Council has failed to take into account its duty when determining whether or not to proceed with the Scheme and Order. Further this is a continuing duty and thus the Council will continue to undertake periodic review of its duty at various points in the Scheme and after the inquiry. The Council's position on this is further discussed at Section 16 of this Statement.

- 21.3.28 The Council has taken into consideration its findings of the EIAA and has gone above and beyond the necessary legislative compensation guidance to offer to the Objectors alternatives such as Shared Equity to allow them to remain on the Estate allowing the Objectors continued access to their jobs, schools and networks. These offers are and shall continue to be offered to the remaining leaseholders within the Order Land subject to engagement by the qualifying interested parties.
- 21.3.29 The Council will provide further detail regarding the EIAA undertaken through evidence.
- 21.3.30 The Council has made various attempts to engage with the Objector to facilitate a private treaty acquisition. To date the suggestions from the Council have been rejected but the Council will continue to engage in a meaningful way with the Objector to acquire the land by agreement.
- 21.3.31 The Council has offered to purchase the Objectors property at open market value, has offered a home loss payment and disturbance costs. Compensation payable for the compulsory acquisition of an interest in land is based on the 'equivalence principle' (i.e., that the owner should be paid neither less nor more than their loss). The value of land taken is the amount which it might be expected to realise if sold on the open market by a willing seller. The Council has received independent valuation advice from an accredited surveyor on the current market value of the property.
- 21.3.32 In addition to the legislative requirements in relation to compensation for the Order and its effect, the Council has also offered other discretionary assistance such as shared equity arrangements which would allow those residents with a qualifying interest to continue to reside in the borough or even the Estate itself. These options are detailed at Section 5.3 of this Statement above.
- 21.3.33 The Objector has rejected multiple offers and assistance made by the Council. Accordingly, the Council has made meaningful attempts, informed by professional advice, to acquire the Order Land by private treaty and will continue to do so
- 21.3.34 **Ground 16:** *The actions of acquiring the confirmation of the Order is ultra vires as it has failed to establish a lawful basis for confirmation of the Order, in particular, but not limited to:*
- *I have to confess I am not a lawyer, and my understanding is very limited, when I saw on the first page, 16 February, I was not aware of the deadline extension to 15 April until recently. Furthermore, whilst this time the address where to object is written, the actual notice still states on Page 6 we should make the objection by 16 February, creating further confusion about the Order, mainly when access to the law is limited because of my limitation in the capability to raise the fund for fees,*
 - *The deadline is on a Good Friday day, a public holiday. As a layperson not legally aware, I find it difficult and confusing the deadline to get specialist legal*

advice

- *lack of alternative plans and lack of adequate resident consultations; even though legally demolishing should be the last resort, other alternative plans are not considered*
- *The acquiring borough has not been transparent; for example, the so-called administration errors and the confusion, and stress it creates, responsibly consideration is not given. For example, if we had failed to put the objection by 16 February 2022, The CPO order would have been confirmed. The administration errors would have been ignored by unsuspecting ordinary residents who are not aware of the mistakes. No apology is given; instead, legal liability for the damage is attempted with “without prejudice to its earlier correspondence.”*
- *From our resident meeting, the administration errors had happened with another phase as well, where multiple copies of the CPO were not correctly served or were defective such as to be of no effect, causing concern and anxiety. Again, the justification of administrative error is being given without considering the negative impact on residents.*
- *The acquiring authority has failed to follow the principles of lawful and good administration and lead its citizens fairly and lawfully.*

21.3.35 **Response:** The Council does not accept this ground. The Objector has not presented any evidence to suggest that the Council has acted unlawfully. The Council acknowledged that there was an administrative error in the original letter of notification and took swift action to remedy the error by re-serving notice on those affected and extending the period for objections from 16 February 2022 to 15 April 2022 (an additional 2 months). The Objectors submitted their objection on both occasions, the latter objections being not substantively different to their initial objection and no persons with a qualifying interest were disadvantaged through this error as the consultation process was restarted and due time for responses was allowed.

21.3.36 The Council has given due consideration to alternatives and has engaged in extensive consultation in regards to the Scheme. The Council did explore alternative proposals such as refurbishment to 1950’s flats rather than demolition as set out in this Statement but these proposals were assessed to be unviable and would reduce the provision of additional affordable housing units/habitable rooms which will be provided through this Scheme. Demolition and redevelopment are therefore considered necessary.

21.3.37 The Council has at all times acted in accordance with law and policy in progressing the Order. The Objectors have not presented any evidence that would suggest otherwise.

21.3.38 **Ground 17:** *The right and legal procedures were not used as explained above. London Borough of Ealing has failed to act according to Ministerial Guidance and consider relevant material in evaluating the CPO and not engage in meaningful negotiations with the objectors.*

21.3.39 **Response:** The Council has at all times in the progressing of the Order acted in accordance with the law and the Ministerial Guidance.

22. INFORMATION OF INTEREST TO PERSONS AFFECTED BY THE ORDER

22.1 A copy of the Order, Order Map and Schedule and this Statement of Case and the documents referred to in the attached list can be inspected during normal office hours at Director of Legal and Democratic Services, Perceval House, 14-16 Uxbridge Road, Ealing, London W5.

22.2 Individuals seeking advice regarding the Order should in the first instance contact one or other of the persons listed below, depending on the nature of the query:

22.2.1 For general queries about re-housing contact Leon Joseph - Regeneration Officer
josephle@ealing.gov.uk or Tel: 020 8896 9372

22.2.2 For queries about legal issues contact Twahid Islam – Senior Lawyer
islamt@ealing.gov.uk or Tel: 020 8825 7316.

23. COMPENSATION

23.1 Provision is made by statute with regard to compensation for the compulsory acquisition of land and the depreciation in value of properties. More information is given in the series of booklets published by the Department for Communities and Local Government entitled "Compulsory Purchase and Compensation" listed below:

23.1.1 Booklet No. 1 – Compulsory Purchase Procedure.

23.1.2 Booklet No. 2 – Compensation to Business Owners and Occupiers.

23.1.3 Booklet No. 3 – Compensation to Agricultural Owners and Occupiers.

23.1.4 Booklet No. 4 – Compensation for Residential Owners and Occupiers.

23.1.5 Booklet No. 5 – Reducing the Adverse Effects of Public Development: Mitigation Works.

23.2 Copies of these booklet are obtainable, free of charge, from:

Communities and Local Government Publications, Cambertown House, Goldthorpe Industrial Estate, Rotherham, S63 9BL, Tel: 0300 123 1124

23.3 In addition, the booklets are available to download for free online at:

<https://www.gov.uk/government/organisations/department-for-communities-and-local-government/series/compulsory-purchase-system-guidance>

24. RELEVANT DOCUMENTS FOR INQUIRY

24.1 The Council intends to refer to, or to put in evidence, the documents (or relevant extracts from those documents) which are listed in Appendix 1, and which are referred to in this Statement of Case. It should however be noted that the Council reserves the right to add to the list as necessary.

APPENDIX 1

Core Document List

Doc No.	Document
	Compulsory Purchase Order and Supporting Documents
	Order
	Order Map
	Statement of Case
	Statement of Reasons
	Statement of Involvement
	Press Notices
	Specimen Notice of Making of the Order served on Owners
	Specimen Site Notice Advertising Making of the Order
	Planning Permission (182579OUT)
	Reserved Matters Approval (11783REM)
	National and Local Planning Policy Documents and Supporting Documents
	National Planning Policy Framework
	Adopted Development (or Core) Strategy 2026 (03 April 2012)
	Policies 1, 1.2 and 2.9 of the Adopted Development (or Core) Strategy 2026
	Adopted Development Management Development Plan Document (December 2013)
	Adopted Development Sites Development Plan Document (December 2013)
	Other Relevant Documents
	Cabinet Report and minutes dated 16 July 2019
	Estates Review; and Code for Sustainable Homes
	The Mayor of London's Good Practice Guide to Estate Regeneration
	Estate Regeneration National Strategy
	Legislation
	Town and Country Planning Act 1990 (as amended) together with subordinate legislation
	The Acquisition of Land Act 1981

	Compulsory Purchase (Inquiries Procedure) Rules 2007
	CLG Circular 01/08 "The Compulsory Purchase (Inquiries Procedure) Rules 2007"
	Guidance on Compulsory Purchase process and The Criche Down Rules (CPO Guidance)

APPENDIX 2

Masterplan Phasing Overview

APPENDIX 3
Phase 7.2 Affordable Housing Statement

APPENDIX 4
Energy Strategy

APPENDIX 5
Sample copies of re-issued letters extending period for objections