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# **CPO Report to the Secretary of State for Communities and Local Government**

## **Stopping Up Order Report to the Secretary of State for Transport**

**by RM Barrett BSc (Hons) MSc Dip Hist Cons Dip UD MRTPI IHBC**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Date: 5 September 2016**

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**Town and Country Planning Act 1990, the Local Government (Miscellaneous provisions) Act 1976 and the Acquisition of Land Act 1981**

**For the Confirmation of the Metropolitan Borough of Solihull (Touchwood Extension, Solihull) Compulsory Purchase Order 2015**

**and**

**The Stopping Up of Highway (West Midlands) Order 201**

Inquiry opened 17 May 2016  
Accompanied Inspection was carried out on 19 May 2016.

Touchwood Extension Solihull

CPO File Ref: NPCU/CPO/Q4625/76174  
SUO File Ref: NATTRAN/WM/S247/2207

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**CPO File Ref: NPCU/CPO/Q4625/76174  
Touchwood Extension, Solihull**

- The Compulsory Purchase Order was made under section 226(1)(a) of the Town and Country Planning Act 1990 and the Acquisition of Land Act 1981 by the Metropolitan Borough of Solihull on 25 November 2015.
- The purposes of the Compulsory Purchase Order are to secure the carrying out of development, redevelopment or improvement of the Order land.
- When the Inquiry opened there were 12 remaining objections and approximately 29 non-qualifying additional objections.

**Summary of Recommendation: The Compulsory Purchase Order be confirmed.**

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**SUO File Ref: NATTRAN/WM/S247/2207  
Touchwood Extension, Solihull**

- The Stopping Up Order was made under section 247 of the Town and Country Planning Act 1990.
- The purposes of the Stopping Up Order are to enable development to be carried out in accordance with planning permission.
- When the Inquiry opened there were 162 duly made objections.

**Summary of Recommendation: The Stopping Up Order be made, subject to the modification set out in paragraph 4.30 of this report.**

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**1. PROCEDURAL MATTERS AND STATUTORY FORMALITIES**

- 1.1 I held concurrent Inquiries commencing on 17 May 2016 and sitting for 5 days to hear representations and objections concerning the above mentioned Orders (May 17,18,19,20 and 24). At the Inquiry, the Metropolitan Borough of Solihull Council's (the Council) Counsel confirmed that all statutory formalities had been complied with<sup>1</sup>.
- 1.2 The Compulsory Purchase Order (CPO) has been made pursuant to the provisions of Section 226(1)(a) of the Town and Country Planning 1990 Act ;(the 1990 Act), (as amended by Section 99 of the Planning and Compulsory Purchase Act 2004). It is dated 25 November 2015. The Council is the Acquiring Authority. The purposes of the Order are set out in paragraph 1 of the Order. They are to facilitate the land's development, redevelopment or improvement by way of a retail-led mixed-use scheme comprising an extension to Touchwood Centre, including retail and leisure floorspace, public realm and associated highway works. At the end of the objection period there were 18 statutory objections, 29 non-statutory objections and one objection made by a statutory undertaker under Section 16 of the Acquisition of Land Act 1981. The original objections are contained in the case file. Six statutory objections and that from the statutory undertaker were withdrawn.
- 1.3 Application was made for an associated Stopping Up Order (SUO) under Section 247 of the 1990 Act on 22 January 2016. There were 135 objections to the SUO which are contained in the case file<sup>2</sup>, four of which were withdrawn

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<sup>1</sup> IQ2 Compliance with statutory formalities bundle

<sup>2</sup> CD41 Highway Stopping Up application dated 22 January 2016

either during or before the Inquiry. Thirty one further representations were made at Inquiry stage. All are before me and will be taken into account in my report.

- 1.4 Whilst there is some overlap in the issues raised in relation to each Order, by interested parties who appeared at the Inquiry and in written submissions, I have taken account of all relevant points made in my consideration of each Order.
- 1.5 The remaining objections and the Council's responses, in respect of both Orders are reported below.

## **2. THE ORDER LANDS AND SURROUNDINGS**

- 2.1 Solihull Town Centre (TC) is the main shopping and town centre in Solihull. The locality of the Order Lands comprises the shops and businesses in High Street and the side roads and lanes leading from it, along with the shopping centre at Mell Square, a short distance from High Street and Touchwood (TWI), which is a large purpose built indoor shopping centre. Close by are a suite of civic buildings, which include the Council offices, the library and a theatre. Solihull TC includes a collection of historic buildings, particularly along High Street and The Square. The grade I listed Church of St. Alphege is a prominent landmark. The mixture of town centre uses, high quality buildings of varying design and spaces along with trees and some planting give the locality a generally vibrant and pleasant character and appearance.
- 2.2 The Order Lands include roughly 1.2 hectares of previously developed land within the TC. It is bounded by High Street, TWI, Church Hill Road /The Square and Church Hill House, which is part of the Council office complex. It also includes The Priory and Orchard House, which are Council office buildings, together with their surface car parking areas; two retail units within TWI; retail and restaurant units, a nightclub and a public house along with their car parking areas, fronting onto High Street and Manor Walk, which runs from High Street towards TWI; and, office and other units, along with their car parking areas which front onto The Square and Manor Square. It also includes Manor Square which provides pedestrian and vehicle access to TWI and the Council offices from Church Hill Road. The layout of the site is best seen on the Order Lands Map<sup>3</sup>.
- 2.3 The Solihull Conservation Area (SCA) boundary bisects the Order Lands, such that the land north of Manor Square is located within the SCA. It also includes four listed buildings on High Street and The Square<sup>4</sup>. Apart from the Council offices, buildings are generally two or three storey in height, of brick or plaster, some with timber framing, under pitched roofs. Prominent upright chimneys add to a generally lively roofline. TWI sits behind and acts as a transition to the larger, more recent civic buildings. The Order Lands are close to a number of other heritage assets including St. Alphege Church and buildings within the SCA.

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<sup>3</sup> CD35 Order Lands map

<sup>4</sup> CD34 para 10.2 Statement of Reasons

- 2.4 Manor Square runs from Church Hill Road and provides access to TWI and the Council offices. It is proposed to stop up Manor Square and that part of Manor Walk closest to Manor Square to implement the proposed development. The road layout and proposed area to be Stopped Up are seen on the SUO application and plan<sup>5</sup>.
- 2.5 This report contains a description of the Order Scheme (the Scheme), the Order Lands and their surroundings, the gist of the submissions made, and my conclusions and recommendations in respect of each Order. Lists of appearances and documents submitted at the Inquiry are attached as Annex A and B.

### **3. THE PROPOSED DEVELOPMENT**

- 3.1 Planning permission was granted for an extension to TWI on 9 December 2015<sup>6</sup>. The description of the development is:
- 3.2 *"Demolition of unlisted buildings and construction of extension to TWI, remodelling of retained listed buildings, creation of pedestrian route from High Street and associated development on land bounded by TWI, High Street, Church Hill Road/The Square and Church Hill House"*.
- 3.3 The Scheme comprises an extension to TWI, providing a new partly covered mall leading from TWI towards St. Alphege, and a new court and open street running northwards to join High Street. The Scheme provides approximately 10,876 sq. m of flexible class A1/A3 retail floorspace including approximately 600 sq. m of existing retail floorspace to be retained and reconfigured. This equates to a mix of roughly twenty one new class A1 retail units and nine class A3 units<sup>7</sup>, depending on their size. The main other components of the Scheme are as follows<sup>8</sup>:
- The mall extension toward St. Alphege Church accommodating units of sufficient depth for modern retailer requirements;
  - New Court and the Pavilion created as a new open space at the cross roads of the new mall, the Drury Lane connection from High Street and the pedestrian link with St. Alphege and Church Hill House. The Pavilion, would be a lightweight building designed for class A3 use and would overlook that space;
  - Drury Lane/ High Street connection intended to complete the retail circuit at the eastern end of High Street. It would include a landmark building, The Lantern, marking the entrance from High Street;
  - The Island Block, backing onto the listed buildings fronting onto The Square. It is intended to form a new perimeter block of development, with class A3 retail units fronting onto the High Street connection;
  - The Belvedere, designed as a lightweight two storey class A3 unit opposite St. Alphege.

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5 CD41 Highway Stopping Up application dated 22 January 2016

6 CD25

7 CD36 Statement of case

8 IQ12 opening Submissions for the Council

- 3.4 The section 106 agreement secures the following headline planning obligations:
- The development and implementation of a car park management scheme;
  - A contribution of £305,500 towards highway improvement works at Church Hill Road/The Square;
  - A contribution of £17,000 towards environmental improvements to the entrance to Malvern Park;
  - A contribution of £124,800 towards off-site tree planting and maintenance; and
  - A contribution towards updating way-finding signage relating to the development.
- 3.5 Associated listed building consent applications were granted on 10 December 2015 and 15 December 2015 in relation to 136-144 High Street, 6 The Square and 158 High Street<sup>9</sup>. These generally relate to the demolition of rear extensions and reconfiguration to facilitate the interface with the Scheme.

#### **4. THE CASE FOR THE COUNCIL: COMPULSORY PURCHASE ORDER**

- 4.1 The CPO has been made under the appropriate statutory powers. Procedural and other requirements of the process in terms of notices and publication of the Order have been met. Negotiation that took place is dealt with in my report. There is no other objection or issue taken by any interested party as to the process or procedure connected with the making of the Order.

#### ***Whether the purposes for which the land is to be acquired fits in with the adopted planning framework for the area and the planning position***

- 4.2 The purposes of the Order are supported in the Solihull Local Plan (December 2013) (LP); an up to date local plan, which has been through the rigors of examination and accords with the National Planning Policy Framework (the Framework). The Solihull Retail, Leisure and Offices Update 2011 identified a qualitative and quantitative need for further retail development in Solihull TC and this is reflected in LP Policy P2. This sets out the requirement to maintain strong, competitive TCs, setting out that Solihull will be developed and sustained as a place of quality and distinction with a focus on retail and commercial uses in order to provide the additional comparison goods retail floorspace required by 2021 (34,000 sq. m). It identifies the Touchwood Opportunity Site, which includes the Order Lands<sup>10</sup>.
- 4.3 The Opportunity Site forms part of a wider TC Strategy, which includes a number of additional TC sites, including Mell Square. It includes seven Design Principles which have guided the Scheme. The Scheme complies with each of the seven Design Principles in the following ways:
- 4.4 *'Development should comprise a seamless extension to the existing TWI shopping centre, and should link into the structure of the existing urban form through a network of new streets and spaces linked to High Street with active ground floor uses.'* The Scheme provides a seamless link from TWI towards

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<sup>9</sup> CD27, CD28, CD29, (listed building consents)

<sup>10</sup> CD9 page 57 Fig 12

St. Alphege Church via a covered arcade which opens onto New Court, an open space at the junction of the High St/Drury Lane link and Church Hill Road. The Island Block and new High Street/Drury Lane link will complete the retail circuit and encourage pedestrian movement through the currently underused east end of High Street.

- 4.5 *'The positioning of new pedestrian linkages to High Street should be carefully selected to avoid the loss or adverse impact on listed buildings or adverse impacts on the character of the Conservation Area. Any demolitions to High Street frontages should maximise the visual link across High Street to Drury Lane from the site in order to stimulate activity at the eastern end of High Street and Drury Lane.'* The Scheme involves the demolition of 146-156 High Street to create a new connection into the Scheme. This will maximise the visual link across High Street and stimulate activity at its eastern end. The buildings are unlisted and this will maximise the visual link with Drury Lane, whilst minimising the impact on the built heritage.
- 4.6 *'Development will be required to preserve and enhance the special historic and architectural character of the SCA and complement the existing TC environment via appropriate scale, height, massing, roofscape, layout, landscaping, public realm treatments, and choice of building materials.'* The Scheme would preserve and enhance the character of the SCA and complement the TC.
- 4.7 *'Development should reinforce the identity of this part of the TC, have a strong visual and spatial relationship with St. Alphege Church and respect its setting.'* A fundamental design principle is to reveal glimpses of St. Alphege when walking from the existing Atrium to New Court. The Belvedere will be subservient and act as a modest backdrop to the Church. Key elevations have been designed to reflect its materials, detailing, architectural quality and setting. Its location, mass and orientation as a key gateway building ensure it would sit comfortably with the Church and the other listed buildings nearby in The Square. Further details pursuant to condition 33 of the planning permission have further improved the elevation of the Belvedere fronting the Church.
- 4.8 *'Development should take advantage of the sloping nature of the site to provide an interesting, attractive and exciting architectural form, sensitive to its context.'* The design has responded appropriately to the topography of the site and its context.
- 4.9 *'Development should improve connectivity between the TC and residential areas to the south and east, and respect the residential amenity of properties fronting Church Hill Road.'* In providing enhanced linkages with TWI and High Street, marked by the Belvedere and the Pavilion, the Scheme would provide an attractive gateway into the TC from residential areas to the south and east. Enhancements to the Malvern Park entrance would be secured.
- 4.10 *'Development should be capable of being implemented in phases'*. The Touchwood Opportunity Site defined in the LP<sup>11</sup> comprises the Touchwood

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11 CD9 page 57 Fig 12

extension in the north and the Council office redevelopment in the south. These two schemes comprise separate planning applications and are capable of implementation in phases as appropriate.

- 4.11 Furthermore, it would also advance other policies of the LP, in particular those relating to economic impact, heritage, and design, landscape, ecology, amenity, drainage, sustainability, highways and developer contributions. It would also comply with section 2 of the Framework which promotes viable, vital and competitive TCs, as the Scheme is needed for the continued and increased strength of Solihull TC.

***The extent to which the proposed purposes will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area***

- 4.12 The Scheme would have very significant and long lasting economic benefits. It would contribute towards meeting the forecast need for additional retail floorspace identified in the LP, based on a robust evidence base<sup>12</sup>. That evidence base was updated by Mr Goddard who concludes that there is a need for 23,508 sq. m gross of retail floorspace by 2021<sup>13</sup> and that there is more than sufficient capacity to support the Order development and additional development elsewhere in the TC; an analysis that does not take account of additional housing growth. In summary, there is a clear quantitative retail need, to which the Scheme would make a vital contribution.
- 4.13 There is a qualitative need for more and better shops and cafes/restaurants and generally to improve the attractiveness of the TC. Although, since the development of TWI, the TC has performed well as a regional centre, it is vital that investment continues if it is to retain its position in the regional retail hierarchy. This is due to competition from other regional centres that have had major enhancements of their retail provision. Without major investment the vitality and viability of the TC will decline. There are no other opportunities within the TC which could accommodate this scale of development.
- 4.14 There is also a particular need for class A3 provision. Mr Prentice advised that there is a lack in the range and extent of dining offers shoppers increasingly expect on an extended shopping trip. The extension to TWI is the first opportunity to address this<sup>14</sup>.
- 4.15 Integrated with the existing TWI and providing an increase in shopping floorspace, restaurants and cafes, the Scheme would reinforce footfall and act as a catalyst for further development. A strengthened retail offer, the inclusion of an anchor store and the new open pedestrianised route from Drury Lane would create a new retail circuit, which would increase footfall in the underused eastern end of High Street. This would help to meet the aim of the TC Spatial Strategy outlined in the LP and help to balance development across

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12 CD11 Solihull TC Study 2009 and CD12 Solihull Retail, Leisure and Offices Study 2011

13 Appendix 4 to Proof of Mr Goddard

14 Proof of Mr Prentice 3.16-3.19

the TC. The owners of Mell Square, in recognising the beneficial effects on the TC as a whole, are supportive of the scheme<sup>15</sup>.

- 4.16 The Scheme would also result in around 500 jobs during the construction phase and around 400 permanent jobs once it is trading, in the most accessible and sustainable location in the Borough<sup>16</sup>.
- 4.17 In terms of its environmental benefits, the Scheme would comprise high quality development seamlessly integrated into the existing fabric of the TC. It would continue the evolution of the TC following the principles established by the TWI. It would sensitively conserve and enhance the heritage assets within the Order Lands and would improve the setting and accessibility of heritage assets in the surrounding area. In particular, New Court would create a strong setting for St. Alphege which would create a strong visual link through the development. By contributing to the economic revitalisation of the TC, the scheme would help to secure the long term future of many heritage assets.
- 4.18 The economic and environmental benefits are also social benefits. Provided in a highly accessible location, the Scheme would enhance access for all sectors of the population to a better range of goods and services and employment opportunities. By reducing the need to travel further afield to TCs with a better offer, it would also contribute towards more sustainable travel patterns.
- 4.19 In summary, the whole development would contribute to the achievement of the promotion of economic, social and environmental well-being of the area.

***Whether the purposes for which the Council is proposing to acquire the land could be achieved by any other means***

- 4.20 The purposes of the Order are specific to the area it covers. The promotion of the TC's vitality and viability needs extensions to TWI. There are no alternative locations that would be suitable.
- 4.21 The whole of the Order Lands are required for the Scheme to proceed. Piecemeal development would not be possible because the Scheme is by its nature a comprehensive and integrated whole. No alternative proposals have been put forward that would meet the exacting policy objectives and commercial requirements that the Scheme has been designed to address. Mr Prentice confirmed that Mell Square is not able to provide any significant new additional retail space in the near future and current development consists of a series of small scale interventions<sup>17</sup>. In any event, the need that has been identified is much greater than the Scheme can satisfy, so that there would still be a need for the Scheme even if there were new development possibilities elsewhere.

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15 Addendum to CD bundle 56  
16 Oral evidence of Mr Goddard  
17 Proof of Mr Prentice 3.9



***Whether there are likely to be any impediments to the Scheme going ahead***

- 4.22 There is every prospect that the Scheme will proceed. The Order Lands have planning permission and the necessary listed buildings consents. An associated draft SUO is before the Inquiry, which would secure the necessary road closure at Manor Square and part of Manor Walk.
- 4.23 There is significant demand from prospective occupiers for the units within the Scheme. When soft launched at a retail conference in September 2015, it was well received and has led to advanced discussion with two major high street retailers not currently represented in Solihull. In addition, discussions are well advanced with a potential anchor retailer. Mr Prentice confirmed that his colleagues who would be leasing the space have a list of over 80 retailers and 40 caterers with requirements for up to 80,000 sq. m of floorspace within the TC<sup>18</sup>.
- 4.24 Lend Lease Retail Partnership (LLRP) is the proposed developer with a strong track record of similar TC development. It is satisfied that the proposed development is viable and that funding will be in place to implement it as soon as the Orders are confirmed<sup>19</sup>.
- 4.25 LLRP has entered into a developer agreement with the Council<sup>20</sup> and is confident that the conditions of the agreement will be fulfilled<sup>21</sup>. The Council is satisfied that LLRP has sound financial standing and financing arrangements in place to support the cost for the CPO and the delivery of the Scheme<sup>22</sup>. Therefore, there are no impediments to it. It was confirmed at the Inquiry that LLRP had already made substantial investment in the Scheme to date. There is no impediment to the Scheme proceeding.

***Whether the purposes for which the Order is made justify any interferences with Human Rights of those with an interest in the Order Lands***

- 4.26 The Council has considered the provisions of Article 1 of the First Protocol to the European Convention on Human Rights. Any interference with the rights of individuals to peaceful enjoyment of possessions is justified and proportionate in the wider interest in order to secure economic, social, physical and environmental regeneration to Solihull TC. Furthermore, the requirements of Article 6 are satisfied, in as much as any person with an interest in the Order Lands has had the opportunity to make a representation and appear at this Public Inquiry.

***Whether it would be in accordance with the Council's duties under the Equalities Act 2010***

- 4.27 In relation to the Equality Act 2010, the Scheme is fully in accordance with the LP, which is founded on a Fair Treatment Assessment of the impact of its

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18 Proof of Mr Prentice 4.11

19 Proof of Ms Beaverson 9.3.5

20 IQ31

21 Proof of Ms Beaverson 11.3

22 Proof of Mr Swallow 7.5

policies on specific groups as a result of race, gender, disability, age or religion. There is no evidence of adverse impact on the interests protected under the Act as a result of confirmation of the Order.

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

- 4.28 The use of the powers contained in section 226(1) (a) of the 1990 Act will facilitate the development, redevelopment or improvement of the area, thus meeting the statutory tests. The Scheme is likely to contribute very significantly to the social, economic and environment well-being of Solihull. Therefore, there is a compelling case in the public interest for the compulsory acquisition of the Order Lands.

### **THE CASE FOR THE COUNCIL: SUO**

- 4.29 The Scheme has been granted planning permission and the relevant listed building consents. To allow the planning permission to be implemented, it will be necessary to stop up Manor Square and that part of Manor Walk closest to it.
- 4.30 The application for the SUO was made to the Department for Transport (DfT) on 22 January 2016 under Section 247 of 1990 Act. An amendment to that draft Order<sup>23</sup>, to reduce the proposed area to be Stopped Up was made on 25 April 2016. The amendment omits a short section of footway on Church Hill Road. The amended plan attached to the draft SUO identifies Manor Square and the part of the vehicle access to the Council offices and The Priory and part of Manor Walk nearest Manor Square, in which existing highway would need to be Stopped Up in order to accommodate the footprint of the new buildings within the Scheme. All are shown on the draft SUO plan<sup>24</sup>.
- 4.31 The Scheme cannot be implemented without the SUO being confirmed. The SUO is necessary in order for development to be able to proceed lawfully, i.e. without any part of it constituting an obstruction of the highway. Given the overwhelming case for confirmation of the CPO, there is every reason for the Secretary of State to grant the necessary authorisation and to confirm the SUO.

## **5. THE OBJECTIONS**

- 5.1 Section 1 sets out the 12 remaining statutory objections to the CPO. Section 2 sets out the non-statutory objections to the CPO. Section 3 gives details of the withdrawn objections. I have used the Order Lands Plot references as set out in the case file.

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<sup>23</sup> As shown on plan 0981-S247-005

<sup>24</sup> As above

## **Section 1 – The Statutory Objections**

### **Order Lands Plots 27, 28, 29, 30, 31, 32, 33, 34, 35: 2-6 Manor Square and 2-6 The Square**

**Name of Objector: Cityforce Investments Ltd**

#### **The Case for the Objector<sup>25</sup>**

- 5.2 The CPO would acquire a substantial part of the properties. However, it would not acquire the older properties fronting The Square but would acquire their rear access and parking. This would leave the properties fronting The Square in isolation at the rear of the Scheme, result in the loss of existing tenants and would be an impediment to future letting. For these reasons, it would significantly adversely affect the investment value of those properties. The Council should acquire all the buildings as well as their parking and rear access.

#### **Council's Response**

- 5.3 Citiforce Investments Ltd does not object to the Scheme<sup>26</sup>, but wishes the Council to purchase more of its landholding. This is a matter for compensation and not for this Inquiry. A CPO should only include land that is required for the Scheme to proceed. The buildings in question are not required for the Scheme to proceed. Therefore, this objection is unsustainable.

### **Order Lands Plots 9, 19, 20, 21: 138-144 High Street**

**Name of the Objector: Stonegate Pub Company Limited (Stonegate)**

#### **The Case for the Objector<sup>27</sup>**

- 5.4 The Inquiry should be postponed because there has been insufficient time to conclude meaningful discussions and for Stonegate to prepare for the Inquiry.
- 5.5 *Class A4 Uses-* The proposed CPO would result in the closure of the businesses that currently occupy the site. These are a bar and restaurant and a nightclub. They are two well established businesses that form an important part of the TC's leisure offer and contribute to its night time economy<sup>28</sup>. Their loss would have an adverse effect on the night time economy of Solihull. They employ 41 staff; jobs that would be lost. It would also result in the closure of its two tenants' businesses, along with a number of other independent businesses.
- 5.6 The class A4 use would be unnecessarily extinguished from the TC. It would be contrary to LP Policy P2<sup>29</sup>, which promotes a broad range of town centre uses, including retail, leisure and entertainment facilities. Furthermore, the Touchwood Opportunity Site as indicated in the LP does not extend to High Street<sup>30</sup>. There are no sound planning or viability reasons for exclusion of class A4 uses in the Scheme. It could include a nightclub/pub/bar on High

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25 The case for the objector is included in the case file

26 Oral evidence of Mr Thorne

27 The case for the objector is included in the case file, IQ3, IQ17, IQ32 and IQ34

28 CD10 Section 6 DTZ Study November 2009

29 CD9 LP paras 7.4.6 and 7.4.12

30 CD9 LP page 57 Fig 12

Street. In not consulting with Stonegate on the design of the Scheme and the continued operation of Stonegate's businesses within it, the Council has failed to make reasonable efforts to provide Stonegate with a suitable opportunity for accommodation. The preferred design of the Scheme reflects the developer's preference for class A1 /A3 uses and the higher financial returns that those uses would deliver and does not assess the impact of the loss of the existing class A4 uses or fully consider their relocation or re-provision.

- 5.7 Stonegate recognise the wider benefits of the Scheme and accept that it would involve the acquisition of all of the Stonegate's landholding. However, the benefits promoted by it could be achieved without that loss. It would therefore adversely affect the Human Rights of the owners, protected by Article 1 First Protocol to the European Convention on Human Rights.
- 5.8 *Heritage Impact*- 138-142 High Street is a Grade II listed building. To implement the Scheme, the existing nightclub and bar and restaurant uses would be lost. The existing rear additions would be demolished and the addition to accommodate the new retail units would have an angled alignment across the retained listed building that would make no concession to its internal layout and would not be a traditional building form. It would represent an unfortunate example of trying to 'shoehorn' a modern development into a TC at the expense of a 17<sup>th</sup> century building that makes up an important part of the SCA. Such development, which would be harmful, is not necessary, as indicated on the ground floor plan of Touchwood extension in the development agreement<sup>31</sup>. As the proposed addition would be seen above the roofline of the existing building from High Street, it would, overall, result in substantial harm to the appreciation of the heritage asset.
- 5.9 Furthermore, no internal surveys were carried out when listed building consent was granted and Historic England raised concern on that basis; a concern that was not withdrawn. This was not correctly brought to the Planning Committee's attention at the time that it made its decision. Therefore, the Council has not given due consideration to the impact of the Scheme on the historic fabric of the listed building, caused by the alignment of the proposed addition, which at the time that the decision was made, was unknown; a matter that cannot effectively be controlled through planning conditions.
- 5.10 *Negotiations*- the Council has not complied with Department of Communities and Local Government (DCLG) guidance to carry out meaningful negotiations. It has not been fair, open and proactive<sup>32</sup>. Landowners were first contacted in February 2015, with a standard letter seeking engagement as part of the planning process. A preliminary meeting took place on 24 March 2015. No minutes were taken. Emails that were sent to Stonegate after that referring to 'valuation' did not convey a serious intention to acquire Stonegate's land. Alleged unsuccessful attempts at contacting Stonegate by telephone confirm the inadequacy of steps taken to negotiate. It was only after the CPO was made that Mr Davies was appointed and a meeting with Stonegate was held on 16 February 2016 at which the need for a proper valuation was made clear and

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31 Annex 2 of the Development Agreement IQ31

32 DCLG Guidance on CPO and the Critchel Down Rules for the disposal of surplus land acquired by, or under threat of, compulsion (October 2015) CD6

acted upon. Whilst this has now been provided, time has not enabled an agreement to be reached. At the time that the CPO was made, which is a measure of the last resort<sup>33</sup>; negotiations over acquisition had been totally inadequate, which counts strongly against confirmation of the CPO. The fact that at that time agreement had not been reached with any other landowner, adds weight to this argument.

- 5.11 *Regeneration Benefits*- Solihull has a thriving TC, with a varied offer and low vacancy rates and is not in need of regeneration. This objection was latterly withdrawn.

### **Council's Response**

- 5.12 *Class A4 uses*- Having regard to the fact that the Scheme does not include a class A4 use, there is still a compelling case in the public interest for the Scheme because Stonegate does not disagree that there is a need for the Scheme and the uses proposed. It considers that a class A4/nightclub use should be included. However, to accommodate a pub/nightclub on High Street as suggested by Mr Davies<sup>34</sup> would be fatal to the Scheme. Mr Prentice, who has vast experience of such matters, in his oral evidence submitted that no developer would contemplate such a scheme. Stonegate did not give comparable evidence to contradict that view.
- 5.13 Even if a scheme incorporating a class A4 use as proposed by Stonegate were commercially viable the Order should still be confirmed for the following reasons:
- The benefits of the Scheme are so substantial that they would outweigh any concern at the loss of Stonegate's uses. Such benefits would include retail units, nine class A3 uses, and a large increase in employment: benefits that would be felt during the day and into the evening. There is no evidence that there would be a need for more pubs in the TC if Missoula closed and the nightclub, open three nights a week from midnight through to 3am makes a limited contribution to the life of Solihull.
  - In any event planning permission could be sought for a change of use in order to accommodate such uses, once the Scheme has been built. However, the Scheme cannot be built without acquisition of Stonegate's landholdings.
- 5.14 *Negotiations*- Attempts were made to negotiate with Stonegate both before and after the CPO was made, such attempts being open, fair and proactive. They included discussions of alternative premises. Evidence has been produced to demonstrate that meaningful attempts at negotiation have been pursued and ultimately that the land cannot be acquired by agreement.
- 5.15 The Council first contacted Stonegate in February 2015, well before the Order was made. After the second meeting on 24 March 2015, discussion about

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<sup>33</sup> Page 6 DCLG Guidance on CPO and the Critchel Down Rules for the disposal of surplus land acquired by, or under threat of, compulsion (October 2015) CD6

<sup>34</sup> Stonegate's Closing para 13 IQ34

valuation for the purposes of acquisition is evidenced in the follow up emails sent to Stonegate by Mr Franklin and Ms Beaverson<sup>35</sup>. Both 'chased' Stonegate, by telephone and email, for a follow-up meeting and the valuation which had been discussed. The timing of Mr Davies's appointment was Stonegate's choice. Mr Franklin made it clear that it takes two to negotiate. Agreement was not possible before the Order was made.

- 5.16 No evidence is before the Inquiry to suggest that Stonegate would have taken other relocation opportunities had those been put forward before the meeting of 16 February 2016. After that meeting Stonegate delayed in compiling the necessary information which meant that agreement could not be reached before the Inquiry started. In any event Mr Franklin, in his oral evidence explained that it was not common practice for landowners to reach agreement on acquisition before a CPO is made. There is no adverse effect on human rights of the owners.
- 5.17 *Heritage Impact*- After Historic England gave its initial comments on the listed building consent (29 July 2015) for 138-144 High Street<sup>36</sup>, further negotiation resulted in an agreed revised approach to the rear addition and the attachment of a condition to the listed building consent to control the interface between the new and old<sup>37</sup>. This is reflected in Condition 4 attached to listed building consent<sup>38</sup>. Even though the rear addition to the listed building would be visible from High Street, no heritage harm would result. Whilst the Scheme proposed is not shown on the master plan attached to the developer agreement between the Council and LLRP that shown would not retain the historic plan form of the listed building. Whilst the wider Solihull TC Spatial Strategy does not include all the buildings on the High Street within the TWII Development Opportunity site, Figure 12 of the LP is diagrammatic only. If those buildings were included, it would indicate that the demolition of listed buildings would be acceptable. Further, it is clear from the Solihull TC Strategy Design Principles that new streets and spaces linked to the High Street are intended, along with positioning of new pedestrian linkages to High Street, to avoid the loss or adverse impact on listed buildings. The Scheme is in accordance with the Solihull TC Spatial Strategy.
- 5.18 *Regeneration Benefits*- the Scheme will make a very significant contribution to the economic, social and environmental well-being of the area, which cannot be achieved in the absence of the Scheme and without the acquisition of all of the Order Lands.

### **Order Lands Plot 23: 150 High Street**

**Name of the Objector: BB Boutique Limited trading as Jurnie (BB Boutique Ltd) (Lessees of 150 High Street)**

### **The Case for the Objector<sup>39</sup>**

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35 Mr Franklin 7/5/2015 and 20/5/2015 Ms Beaverson 1/7/2105 attached to Mr Franklin's summary proof IQ4

36 Appendix 2 to Mr Semple's proof

37 Report to committee re LBC PL/2015/51465/LBC page 253 CD22

38 LBC PL/2015/51465/LBC CD27

39 The case of the Objector is included in the case file

- 5.19 BB Boutique Ltd is a family owned business specialising in the sale of baby ware, childrens' clothes and gifts. It attracts customers from beyond Solihull and, along with other independent retail outlets, contributes to Solihull's unique attraction. Solihull has seen a decrease in such shops in recent years, which has diminished its attractiveness and the range of goods on offer. For this reason Solihull is taking on the character of a 'clone town'. There is no evidence to support the contention that without more development Solihull TC will decline.
- 5.20 The Scheme would force out the last remaining independent shops in this part of High Street. With that loss there would inevitably follow a loss of community involvement and local ownership by local people. The CPO would result in the loss of the business, its window display for various artists, artisans and small scale specialist producers, and would impact on the support provided by the objector for other local businesses in the area.
- 5.21 There has been no proper consideration or discussion with the owner to understand the business, the effects of the landholding's acquisition or to agree a private treaty. The Council has failed to make reasonable efforts to provide a suitable opportunity for accommodation within the Scheme on comparable terms. Communication about the proposed development has not been clear and transparent, with rumours, rather than fact, particularly at the early stages of the process in 2015. The objector was not aware of the proposed development when it took out the lease in 2013. The uncertainty that has resulted has adversely affected the business in terms of turnover and in securing suppliers.
- 5.22 Relocation of the business would be very difficult as there are very few suitable vacant shops available at a reasonable rent and none are likely to come forward in the near future. The Scheme would not provide reasonably priced units for specialist or small scale retailers.
- 5.23 No alternative has been put forward to mitigate or avoid the demolition of the premises. The Scheme would destroy the existing authentic character of the locality and replace it with a pastiche.
- 5.24 Leisure and catering space is well catered for in Solihull. The proposed additional space is likely to be taken up by multiple or chain restaurants.
- 5.25 The Scheme would result in additional traffic congestion which will make TC parking more difficult. The Scheme is unimaginative, insensitive and ill judged.

### **Council's Response**

- 5.26 BB Boutique's unit is needed for the Scheme to be developed to provide a crucial link from the High Street, which to link with Drury Lane and avoid the demolition of listed buildings, must be in the location proposed<sup>40</sup>. No alternative has been suggested or is before the Inquiry.

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40 Proof of Mr Prentice para 5.6

- 5.27 The fact that BB Boutique will be displaced is regrettable. However, overall the benefits of the Scheme would outweigh that loss. There is nothing to prevent the business seeking alternative accommodation in the Scheme, which Ms Beaverson explained seeks to accommodate independent retailers<sup>41</sup>. However, that would be at market rents because planning policy does not require units to be made available for less than market rent. Overall, by reinforcing the vitality of the TC, the Scheme will benefit the whole of the TC, including specialist independent retailers.
- 5.28 Any adverse effect on the success of the business is a matter for compensation and not for this Inquiry.

**Order Lands Plot 22: 146-148 High Street**

**Name of the Objector: Revital Limited (Lessees of 146-148 High Street)**

- 5.29 Evidence was presented in writing.

**The Case for the Objector<sup>42</sup>**

- 5.30 *Negotiation*- The Council has not made reasonable efforts to acquire the Company's interest by agreement prior to making the CPO, which runs contrary to Government advice.
- 5.31 *Continuity of Trading*- There remains considerable uncertainty as to whether the company will be able to continue trading in the TC. The forced closure of the store would result in potential loss of employment and removal of an important service to the TC. This would not be of social or economic benefit to Solihull.
- 5.32 *Planning Permission*- has not yet been granted and therefore significant impediment to the delivery of the Scheme remains.

**Council's Response<sup>43</sup>**

- 5.33 Efforts have been made to negotiate with Revital Limited and discuss a supported relocation strategy. Having first met with the Managing Director in April 2015, an agent has been appointed and efforts have been made to arrange a further meeting.
- 5.34 The land is required to provide the link from Drury Lane and High Street. Any potential loss of employment or an established service use in the TC would be more than outweighed by the additional employment provided by a class A1/A3 unit included in the Scheme<sup>44</sup>.
- 5.35 Planning permission for the Scheme was granted 9 December 2015 (PL/2015/51464/MAJFOT)<sup>45</sup>. There is no further impediment to delivery.

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41 In the oral evidence of Ms Beaverson

42 The case of the Objector is in the case file

43 Para 12.16-12.22 Proof of Mr Goddard and proof of Mr Franklin para 4.27

44 Proof of Mr Goddard para 12.16-12.22

45 CD25 and S 106 Agreement CD26



### **Order Lands Plots 19, 20: 142 High Street**

#### **Name of the Objector: Coral Racing Limited (Lessees of 142 High Street)**

5.36 Evidence was presented in writing.

#### **The Case for the Objector<sup>46</sup>**

5.37 There is no intention to demolish the unit occupied by the business. Therefore we should be allowed to continue trading.

5.38 The business is an established operator in the TC and there is no alternative location that would be suitable. The business would therefore no longer have a presence in Solihull. The interests of the traders have been overlooked.

#### **Council's Response<sup>47</sup>**

5.39 The property is needed to provide a reconfigured unit capable of meeting modern occupiers' requirements. This is necessary to increase footfall at the eastern end of High Street. In any event it would not be possible for the objector to stay trading during construction.

5.40 In the event that alternative premises were not available, this would be a matter for compensation. When balanced against the wider benefits of the Scheme and in particular its contribution to the vitality and viability of the TC, the impact of loss of this operator would be justified.

### **Order Lands Plots: 25, 26, 27, 28, 30, 33, 34, 35, 36, 37**

#### **Name of the Objector: Ruxton Independent Estate Agents & Valuers LLP; Pearcelegal Limited; Nisar Feroz Khan Dental Practice Manor Square; Anthony Stockton Solicitors (Lessees of 156, High Street: 2, and 6 The Square and 2 and 4 Manor Square and associated parking spaces)**

5.41 The objectors below presented evidence in writing, in identical terms. I will therefore address them together.

#### **The Case for the Objectors<sup>48</sup>**

5.42 Solihull is not under threat. Recent developments nearby are different or would not compete with Solihull, including Resorts World near the NEC, Birmingham Grand Central, Coventry and out of town retail parks. Evidence that categorises Solihull TC as a 'quality regional centre' is aged.

5.43 The Council should focus resources on Mell Square to regenerate the TC. There is no proven demand for the leisure component of the Scheme and it appears no correlation between that and the suggested residential development.

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46 The case of the Objector is in the case file

47 Proof of Mr Goddard para 12.33-12.36

48 The case of the Objectors is in the case file

- 5.44 The Scheme would result in some areas of 158 High Street being inaccessible. This would result in a listed building in SCA being put at risk as parts would be sterilised by the proposed Scheme. The Scheme does not respect the internal layout of the listed buildings which would give rise to uncertainty regarding the proposed accommodation and ultimately the viability of those buildings.
- 5.45 The Scheme would deprive existing businesses of their rear car parking spaces, which will adversely affect the viability and future marketability of the premises leading to deterioration in the quality of tenant and the loss of amenity and employment from the TC. Furthermore, there is limited evidence to demonstrate that the Scheme would give rise to very limited additional parking demand calling into question both the capacity of the existing infrastructure to service the proposed Scheme and the contention that it would strengthen the TC.
- 5.46 The Scheme would not use underutilised land; it would displace a number of established businesses, their service, employment and the diversity they bring. It is biased towards retail uses with some leisure, and may result in the loss of other business uses particularly in the professional service sector. Residential development may not come forward if the TC leisure offer is not introduced.
- 5.47 The benefits of the Scheme are not proven. This includes its employment and regeneration benefits along with the suggested income that would be generated by business rates. Rather it would adversely affect other parts of the TC such as Mell Square, by attracting their current occupiers, and in so doing, would fail to comply with LP Policy P2. The Council should not put financial gain above compliance with planning policy. Moreover, it is not confirmed that the development agreement between LLRP would address the implications of an overspend on the development.

### **Council's Response**

- 5.48 The need for the Scheme development is addressed in the evidence. The DTZ and CACI reports indicate that Solihull faces significant competition and the scale of new development proposed would enable it to retain its market share and position in the rankings. There is a clear qualitative need for the class A1 and class A3 floorspace and modern outlets that reflect the modern operator's requirements. Without the development Solihull will decline and the wider social, economic and environmental benefits will be lost.
- 5.49 There is no evidence to suggest that it will have an adverse effect on Mell Square. The LP anticipates a phased approach to TC development, with Mell Square coming forward as a later phase. In any event, the scope for major retail development at Mell Square is limited and there is more than sufficient demand and capacity to support additional class A1 and class A3 development at Mell Square in due course, if suitable opportunities arise.
- 5.50 A revised listed building consent accommodates access to all remaining parts of 158 High Street<sup>49</sup>. Any impacts on values/viability due to the Order are matters for compensation. The Council is not seeking to justify the Scheme by

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49 Revised LBC dated 15 April 2016 for 158 High St

reference to financial gain. The evidence addresses the fact that there is a clear case for the Order in the public interest. The impact on the objectors' rights is justified by the wider benefits in the public interest.

- 5.51 The evidence of Mr Jones explains that there would be sufficient car parking capacity to accommodate current and future demand. This includes details of specific provision for staff and operational requirements of those affected by the Order, including arrangements during construction and details of availability in the TC generally<sup>50</sup>.
- 5.52 The objectors provide no alternative proposals. All the objectors' land is needed to provide the link from High Street, the Island Block to complete the retail circuit at this end of High Street, to retain listed buildings and provide an acceptable development that meets planning policy.

**Order Lands Plot: 21, 24, 35, 36: 144 and 152 High Street**

**Name of the Objectors: Sporting Barbers UK Limited (Lessee of 144 High Street) Solihull and Shirley Estate Agents Ltd trading as Melvyn Danes (Lessee of 152 High Street)**

- 5.53 The objectors below presented evidence in writing, in similar terms. I will therefore address them together.

**The Case for the Objectors<sup>51</sup>**

- 5.54 The properties are not required for the Scheme to proceed. Plans show there to be a class A1 use in place of the premises and therefore the existing properties could be retained. This would retain a grade II listed building and the current occupier, which would better advance the aims of LP Policy P2.
- 5.55 There is a shortage of office premises at affordable rents in the area suitable for this business. The Scheme does not adequately provide for small businesses which would diminish the variety and attractiveness of the TC. Due to this it does not meet the needs of LP Policy P2.
- 5.56 As it is proposed to continue its use as a class A1 unit, footfall would be better stimulated by providing access to the extension to TWI at the east end of High Street visible from Drury Lane.
- 5.57 The proposed car parking arrangements are inadequate. They rely on drivers complying with proposed routing signs to less busy car parks when the most popular car parks are full. If drivers ignore them, it could lead to congestion. Moreover, access and exit gates from the TC car parks fail to deal with the inflow and outflow of commuters causing queuing on the highways. If traffic is increased as a result of the Scheme, it will result in shopper dissatisfaction for those travelling by car. Coupled with the lack of variety in shopping experience, due to the small retailers being pushed out due to lack of units at affordable rents, customers will ultimately go elsewhere.

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<sup>50</sup> Proof of Mr Jones

<sup>51</sup> The case of the Objectors is in the case file

- 5.58 The lack of footfall at the east end of High Street is due to other factors including the proximity of public transport, car parks and pick up points that the Scheme would not address. The Scheme would result in a two tier centre with the successful TWI with enhanced car parking and transport and TWII without, which will make TWII less attractive and result in empty units. The impact can be seen in other TCs where modern busy shopping centres sit alongside new failing retail developments e.g. Luton, Hemel Hempstead, and Zagreb.
- 5.59 There are already many large and varied class A3 providers in the TC that are not being used due to the lack of late night parking within the TC. Also the proposed Waitrose development is to proceed and can only worsen the parking situation. Congestion on Church Hill Road is due to traffic accessing TWI. There is no justification for the CPO as the public interest does not decisively demand it.

### **Council's Response**

- 5.60 This is also subject to an objection by the freeholder of No.144, Stonegate. The land is required to reconfigure the rear of the unit and to create new units along High Street to reinforce the entrance to the Scheme and strengthen footfall at the east end of High Street.
- 5.61 The Scheme is required to meet the identified need for additional class A1/A3 floorspace; without the development Solihull will decline over time. 144 High Street is required to allow the existing unit to be remodelled and create an effective anchor unit to reinforce the eastern end of High Street and the entrance to the Scheme. It would not be possible for the occupier to remain in situ given the extent of the proposed works. 152 High Street is essential to achieve a viable scheme which meets the planning, heritage and commercial requirements identified previously.
- 5.62 There is no planning policy requirement for 'affordable units' within the Scheme. The evidence of Mr Prentice and Ms Beaverson identifies the need to achieve a viable development, which relies on achieving sufficient rental income to support the development costs<sup>52</sup>. This does not, however, preclude the objectors from seeking alternative premises elsewhere in Solihull on market terms if available. In any event the loss of these businesses would be outweighed by the wider social, economic and environmental benefits of the Scheme. Matters of compensation are not for this Inquiry.
- 5.63 There is ample car parking available in Solihull to service all identified needs from existing and proposed development. Mr Jones explains the proposal to provide a convenient drop-off point to serve the eastern end of High Street.
- 5.64 There is significant demand for the Scheme as evidenced by Mr Prentice and Ms Beaverson. Therefore there is no reason to assume that the Scheme would be less successful than TWI.

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52 Proof of Ms Beaverson and Mr Prentice

## **Order Lands Plots 27, 28: 4-6 The Square**

### **Name of the Objector: Stephen Michael Perkins (Lessee of part of 4-6 The Square)**

5.65 Evidence was submitted in writing.

#### **The Case for the Objector<sup>53</sup>**

5.66 The business would be unviable due to the loss of parking and the activity which would occur as a result of development at the rear. The business would be responsible for the lease and all associated costs.

#### **Council's Response**

5.67 Measures have been put forward to accommodate temporary and long term operational parking for all affected parties. There is sufficient parking available in the TC to service both existing and proposed needs of customers and visitors<sup>54</sup>.

5.68 There will be temporary disruption during the construction phases of the development at the rear. This is an inevitable consequence of TC investment. However, the impact of any short term disruption on this and neighbouring businesses will be outweighed by the benefits of the Scheme addressed in the evidence.

### **Section 2 – Non-Statutory Objections**

5.69 This section reports on the non-statutory objections to the CPO and the SUO. Below I report on the points made by those who appeared at the Inquiry and summarise those made in writing. In the interests of brevity, where particular matters are made by a number of objectors, I have not repeated them in summarising the matters addressed by each person.

#### **Order Lands Plot: The objection relates to the CPO as a whole and the SUO.**

#### **Name of the Objector: Richard Stubbs (Local Resident)**

##### **Case for the Objector<sup>55</sup>**

5.70 The Council should have sought amendment to the planning application before granting permission. By issuing the CPO shortly after the grant of planning permission, it hardened people's objection to the Scheme. This could have been avoided.

5.71 I do not object to the principle of the SUO or the loss of the drop-off facility at Manor Square. However, the Scheme would be improved if the buildings were set back from Church Hill Road and a layby included accommodating a drop-off facility, which may mean that customers would not go elsewhere.

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53 The case of the Objector is in the case file

54 Proof of Mr Jones

55 The case of the Objector is in the case file

- 5.72 I am concerned that the Scheme would result in the loss of many small businesses on the High Street. Their loss would adversely affect the diversity of this part of Solihull. The Council should work to ensure that existing businesses should be retained in the TC. This would accord with paragraph 23 of the Framework, which sets out the need to promote competitive TCs that provide customer choice and a diverse retail offer and reflect individuality.
- 5.73 The proposed re-routed section of Manor Walk would have a kink in it. This would not allow end to end visibility. It could result in a narrow, quiet, gated dead-end like other similar links from the High Street at Gardeners Walk and Clarendon Walk. It would be used as a toilet and by rough sleepers at night and appear unsafe. Such a design is contrary to current thinking. This could be solved by widening the stretch of path from the shop units to the entrance to TWI or extending the SUO to cover the full length of Manor Walk.
- 5.74 In the past the access to the Council offices and Manor Square necessitated a mini-island. If this was considered necessary in the past, a similar replacement should be provided to the new access road. In bad weather and at peak hours it will not be a safe exit onto Church Hill Road. I do not accept Mr Jones's concern that a priority junction is not appropriate on a road with a gradient as stop-start traffic already has to cope with the gradient. A traffic signal junction or mini-roundabout is required. As there is no long section of the proposed access road, I am concerned about the gradient to Church Hill Road.

**Order Lands Plot: The objection relates to the CPO as a whole and the SUO.**

**Name of the Objector: David Patterson (Local Resident) (also speaking on behalf of Sydney Ashby)**

**Case for the Objector<sup>56</sup>**

- 5.75 The Manor House is the oldest and most significant domestic building in Solihull. The Scheme would take its parking and remove its vehicular access, which would adversely impact the income of the Charitable Trust that owns it, the house and its setting. The Manor House and its garden were bought for the people of Solihull after the Second World War. The garden is one of the only natural areas in the centre of Solihull and the Scheme should not take some of it.
- 5.76 2-6 The Square are early 16<sup>th</sup> century, timber framed listed buildings. The car park is vitally important to the function and prosperity of their occupiers, which are businesses. Retail and restaurant units would be built in the car park at their rear. The car park forms part of the setting of those listed buildings and should be protected. This would affect the livelihoods of those occupiers, the listed buildings and the SCA. The Council is influenced by the provisions of the section 106 agreement.

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<sup>56</sup> The case of the Objector is in the case file

- 5.77 The need for approximately twenty retail units and nine restaurants has not been proven, particularly in light of the rise in online shopping. There are over fifty restaurants, cafes and bars already. Ms Beaverson explained that footfall in TWI had decreased. I disagree that the Scheme will be good or will enhance and improve Solihull.
- 5.78 Manor Square is used by Council staff and members of the public to access parking and by service vehicles. It provides access to the rear of properties housing businesses on High Street and The Square, including emergency access. Out of hours servicing and deliveries for those businesses would place a burden on them. Further, there is a busy pick-up and drop-off point in Manor Square, which is the only vehicular access at TWI's eastern end. Moreover, the SUO would remove the two access points to the Council offices from Manor Square and replace it with a single access from Church Hill Road.

**Order Lands Plot: The objection relates to the CPO as a whole and the SUO.**

**Name of the Objector: Trevor England (Solihull Local History Circle (SLHC))**

**Case for the Objector<sup>57</sup>**

- 5.79 The loss of the parking to the Manor House, a grade II listed building, would result in the loss of the income required to maintain the building. The access from Manor Square would become an alleyway with a dead end which would be unsafe at night. The garden would receive less sunlight.
- 5.80 The loss of buildings on High Street to form a wide passageway to TWII is unnecessary. An access could be achieved by a flattened arch opening in one or two of the buildings. Such an approach would preserve the attractive roofline, frontages and windows at first floor level.
- 5.81 The demolition of 158 High Street (Letting Places) would result in the loss of the timber work from the adjacent listed building. The proposed alterations to 138-144 High Street would damage the grade II listed building and the loss of Lunar Nightclub would destroy a TC amenity for young people.
- 5.82 The demolition of the rear extension to 6 The Square would adversely affect the SCA and would abolish the private parking behind those properties which is essential for the business.
- 5.83 The loss of The Priory, which harmonises with the trees and St. Alphege, and erection of the Belvedere would result in a glass monstrosity opposite the 12<sup>th</sup> century listed building. It would dominate it by day and night.
- 5.84 Businesses in High Street, which are largely held by private traders, would be lost. Those occupying 138-144 High Street could remain as the buildings are retained. More restaurants are not needed. Using an archway through the existing buildings on High Street to provide the link through the proposed development, would retain more of those buildings, including No. 156, which

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<sup>57</sup> The case of the Objector is in the case file

has similar 'timbering' to those buildings on The Square. The Lantern would look out of place. The roofline of the new buildings on Warwick Way would be too high. The plasterwork on the Priory windows is fine and should be incorporated into the new development.

- 5.85 The Council's planning committee was misled on a number of points, including the concerns of the Conservation Area Committee, the comments of Historic England and in as much as the Council did not declare an interest in the planning application even though changes to its offices would be funded by the developer.
- 5.86 Regarding the SUO, we have an ageing population and the proposed alternative drop-off points as a result of the closure of Manor Square would not be easy for the frail and elderly to use. That proposed in Homer Road necessitates a walk up a steep gradient; alternative provision in The Square would be impossible due to heavy traffic; that in Drury Lane would have limited space due to the Ring and Ride bus stop. There is heavy traffic, which would be a safety issue and I am unsure that George Road can take the additional traffic that would result. Alternative provision at the Church Hill end of Manor Road would be safer and nearer to TWI and proposed TWII.

**Order Lands Plot: The objection relates to the CPO as a whole and the SUO.**

**Name of the Objector: Angela Cameron (SLHC)**

**Case for the Objector<sup>58</sup>**

- 5.87 The Scheme would have major impacts on the SCA, including the loss of 19<sup>th</sup> century buildings on High Street with particularly interesting frontages and roof line. A wide arch opening, with appropriate signage, which incorporates the roofline and first floor windows of the properties on High Street as an entrance to the Scheme, would be more appropriate. The Lantern would not be in keeping. As little damage as possible should be caused to existing small business uses and the Missoula frontage should not be altered.
- 5.88 The Manor House previously lost land due to redevelopment. Although its trustees have withdrawn its objection, notwithstanding the amendments to the walls that would surround that garden, it would still lose sunlight. Manor Walk would have a dog leg, which would pose safety risks particularly at night. This should be straightened and then the garden could be extended into TWI.
- 5.89 The Belvedere would be a glass monstrosity. It would be too high, too close to Church Hill Road and quite incongruous. As it would be in an area of Archaeological Significance, survey work under The Priory should be done prior to development. There is no means to protect the archaeology present.
- 5.90 The Council did not declare an interest when determining the planning application and officers did not properly report the concerns of the Conservation Advisory Committee. Further proper consultation with the people of Solihull did not take place.

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<sup>58</sup> The case of the Objector is in the case file



- 5.91 Church Hill Road is very narrow, steep and busy. Manor Square is a safe and convenient drop-off and pick-up facility providing a level access to TWI and the local facilities. The alternatives put forward are either impractical or unrealistic. Drury Lane is too small, crowded and distant; Homer Road would involve a climb up a ramp to Library Square and TWI car park is often full and the lifts are small. There should be no loss of disabled and short term parking in Manor Square or loss of the drop-off and pick-up facility.
- 5.92 The entrance to the Scheme off Church Hill Road would require traffic lights and involve a tight 180 degree turn. It would be opposite Rectory Drive and St. Alphege and provide access to the Council offices. Large vehicles would occupy the whole road whilst making the turn. The loss of walls, trees and planting on this part of Church Hill Road is regrettable.

**Order Lands Plot: The objection relates to the CPO as a whole and the SUO.**

**Name of the Objector: Mr Ramsay (Local Resident)**

**Case for the Objector<sup>59</sup>**

- 5.93 The CPO would include some of the Manor House land, which would put in question its position as a self-supporting charity due to :
- The loss of clients' car parking at its rear which would deprive the Manor House of a source of income. The Manor House needs a regular income and without it, its future is questionable;
  - The garden is an area of tranquillity and the Scheme would result in a loss of sunlight into it;
  - There would be no rear access, including for refuse collection, emergency services and servicing.

**Order Lands Plot: The objection relates to the CPO as a whole and the SUO.**

**Name of the Objector: Peter Thompson (Local Resident)**

**Case for the Objector<sup>60</sup>**

- 5.94 It concerns me that such an irrevocable decision regarding Solihull should be influenced by money and people who do not live here. The Council has been inappropriately influenced by works to its offices, an increase in business rates, while despoiling the area and devaluing properties that would lose their car parking. It did not listen to its electorate.
- 5.95 The Scheme seems unnecessary and therefore inappropriate. There would be empty stores in the TC in the near future. It would disproportionately increase the number of larger shops and eateries at a time when they would only add cost and no benefit. It would impact the opportunities for small businesses

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<sup>59</sup> The case of the Objector is in the case file

<sup>60</sup> The case of the Objector is in the case file

and, together with the loss of the existing nightclub, would put the stability of the east end of High Street at risk and so visually affect the TC in perpetuity.

- 5.96 Alternatives are possible to keep the nightclub, tidy the backs of premises facing High Street, provide a straight walkway to help pedestrians feel safe and provide affordable units for small businesses that are an important element in the diversity of the area.
- 5.97 It is not necessary for Solihull to be higher than 13<sup>th</sup> in the regional rankings. If this development goes ahead, whilst I am pleased that the owners of Mell Square support it, they would find it difficult to justify further development there.
- 5.98 I would like a rethinking of the whole Scheme to allow those owning small businesses and local peoples' wishes to be further considered and implement a scheme that does not affect the amenities clearly held in high regard by the people of Solihull.
- 5.99 My particular concerns are:
- At the junction of the Scheme with Church Hill Road bollards would be the only protection for pedestrians on the edge of a very busy road;
  - The increase in traffic would not be 'insignificant' as a result of the Scheme. This is a particular concern at the island at the junction of Church Hill Road and Homer Road as it provides access to nearly 40% of the car parking and queues to car parks cause traffic congestion at present;
  - The loss of the drop-off and pick-up facility at Manor Square would affect those across all age ranges and would deter the less able and parents of youngsters from coming into the TC;
  - The Lantern which would appear as a 'carbuncle', the loss of the garden to Manor House and the large glass fronted building opposite St. Alphege are unacceptable;
  - The traffic and footfall data on which the Scheme was based are not readily available to the Inquiry;
  - Mr Jones explained that there would be an insignificant increase in traffic. Therefore those visiting would have to spend more, which could adversely affect the viability of the Scheme.

**Order Lands Plot: The objection relates to the CPO as a whole and the SUO.**

**Name of the Objector: Eric Moreton (Local Resident)**

**Case for the Objector<sup>61</sup>**

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61 The case of the Objector is in the case file

- 5.100 Manor Square, between Manor House and Church Hill Road, is a public right of way for access to Manor House and the shops and offices on High Street. It provides vehicle access to the rear of those buildings and a drop-off and pick-up facility which should be retained.
- 5.101 The pedestrian environment is dangerous on New Road and Church Hill Road. Servicing from Church Hill Road with no turning facility within the Scheme would result in large vehicles reversing onto a main road which would be dangerous and put pedestrians at risk. Roof level servicing should be provided for the new units at TWII.
- 5.102 No comments were sought from fire, police or ambulance services in determining the planning application. The development agreement between the Council and LLRP should be investigated.
- 5.103 The acquisition of the parking at the rear of the Manor House would not be for public benefit. It would adversely affect its income and the upkeep of the listed building.
- 5.104 The Belvedere opposite St. Alphege would reflect the sun onto the soft sandstone and cause damage.
- 5.105 The results of a traffic and activity survey recently carried out at Manor Walk/Manor Square were not provided at the Inquiry and could not be examined. Therefore, the examination of the Scheme cannot be satisfactorily completed.

**Order Lands Plot: The objection relates to the CPO as a whole and the SUO.**

**Name of the Objector: Patricia Ritchie (Local Resident)**

**Case for the Objector<sup>62</sup>**

- 5.106 The Scheme would result in a high wall around the Manor House garden and the loss of a drop-off and pick up facility in Manor Square. Retail would suffer and local people would have to cope with the effect of the Scheme on the free flow of traffic, along with the chaos of demolition and building. The trustees of Manor House, I believe, agreed to withdraw their objection to the CPO only because they had no other way of preserving their ability to attract businesses to the premises, by offering parking, and thereby ensuring the future maintenance of the historic building.
- 5.107 The expansion of TWI at a time when retail is on the decline and online shopping on the rise does not seem appropriate. There are enough shops in Solihull to satisfy the needs of most people in the area. Its unique character will be destroyed. The young people who enjoy the night club and pub which would be lost would have to travel to Birmingham. The Council has let down the people of Solihull.

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<sup>62</sup> The case of the Objector is in the case file

5.108 Stopping Up Manor Square would deprive local people of a convenient drop-off facility.

**Order Lands Plot: The objection relates to the CPO and SUO**

**Name of the Objector: Elizabeth Sands (Local Resident)**

**Case for the Objector<sup>63</sup>**

- 5.109 Manor Square has been in use as a drop-off facility for 15 years. It was intended for such use, having been designed as mitigation for the TWI development and High Street pedestrianisation. The measured distance from the proposed alternative Drury Lane drop-off points, as suggested by Mr Jones, is inaccurate. It is 150 metres from the current drop-off point to the library. This would increase to 325 metres, which would be greater than the 200 metres desirable walking distance<sup>64</sup>. That document specifically excludes the mobility impaired from that desirable guide in TCs<sup>65</sup>. I disagree with Mr Jones that access to the library and theatre would remain unchanged.
- 5.110 Further, the proposed drop-off point in Drury Lane would result in the loss of 3 disabled parking spaces. These are very well used because they are so close to Mell Square and pedestrian access/exit from that car park is a steep ramp, which is very difficult to negotiate pushing a wheel chair or for the mobility impaired. In total 7 disabled spaces would be lost and the proposed replacement at the Council offices would not be available to the public during office hours.
- 5.111 The proposed drop-off facility at Homer Road requires a walk up a steep incline to the library. The proposed new grace period in the TWI car park would be very useful at non-peak times, but in peak time there are long queues and it would be impractical for drop-off use, particularly for taxis at those times. In any event, that proposed facility would not usefully serve those wishing to visit the Manor House, St. Alphege or the shops on the High Street. None of the proposed drop-off points would be suitable for young children.
- 5.112 Mr Jones's map RJ08 shows car parks within 200 metres of the TC. These are an essential facility for the mobility impaired. The draft SUO would be contrary to Disability Discrimination legislation as no satisfactory alternative is put forward. Further, TC car parking capacity would not accommodate the Scheme and Monkspath Hall Road Car Park is some distance from the Order Lands.
- 5.113 There is no mention of consultation with the emergency services, particularly the fire brigade and police as a result of the draft SUO. Although access would be available via High Street, it is busy on market days and many buildings nearby are timber framed, which would result in a fire risk. Speedy access to the shopping complex in the event of a major incident would be restricted.

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63 The case of the Objector is in the case file

64 The Institute of Highways and Transportation Guidelines for Journeys on Foot.

65 Para 3.32 page 48

5.114 In conclusion, for all these reasons the draft SUO would fail to meet the provisions of LP Policy 7, which aims for new development to provide accessibility and ease of access. This is because a valuable drop-off facility would be lost with no viable and workable alternative to accommodate the mobility impaired; rapid and direct vehicular access to the eastern end of the proposed complex would be lost along with the loss of rear access to the business premises on High Street, which would threaten the existence of the historic buildings.

#### **Other Objections to the CPO**

5.115 There were a number of objections in writing, which echoed the concerns of those who spoke at the Inquiry, based around heritage harm and the structural integrity of the listed buildings as a result of construction, harm to the Manor House and garden, the need for the development, traffic impact and parking. In addition, they raised the following points: the old Library should be listed and preserved; the applicant was promised permission prior to putting in a planning application; apartments in the TC would enable people to live in the centre and get to the shops and other commercial premises without using a car.

#### **Other Objections to the SUO**

5.116 In addition to the concerns of those who appeared at the Inquiry, I have 135 outstanding written objections to the SUO and a further 31 made at Inquiry stage. A significant number of the representations object to the SUO solely, or primarily, on the basis that it would enable implementation of the planning permission and associated listed building consents to extend TWI referring to the lack of need, mix of retail outlets that would result, the effect on the SCA and listed buildings, including Manor House and those nearby on High Street and The Square. The main grounds of objection concerning the Stopping-Up of Manor Square and Manor Walk relate to the loss of the drop-off and pick-up facility at Manor Square, the rear access to properties on High Street and the Council offices and its car park.

#### **Council's Response**

5.117 The non-statutory objections to the CPO and Objectors to the SUO generally fall under a number of headings and are responded to on that basis.

5.118 *Principle of Development:* The scheme accords with the up to date LP and specifically the Strategy for TW Opportunity site. Challenging the principle of the Scheme is in effect an objection to the LP itself.

5.119 *Need and Demand:* There is clear evidence of demand and need for the development. Solihull's market share will fall and the TC will decline if the Scheme is not carried out. The Scheme is the only opportunity for major retail development within the TC that can be regarded as suitable, viable and available to meet needs up to 2021. Failure to secure all the development will be harmful to the viability of the TC and risk applications for retail development in less central locations. It would regenerate the east end of High Street by providing a new retail circuit with an anchor store and mix of class A1/A3 units suited to modern retail requirements. This would enhance

the vitality and viability of the TC generally, with spin off benefits to local retailers and other TC businesses. There was not substantial challenge to this proposition at the Inquiry.

- 5.120 *Design and Heritage:* The Scheme is well designed, has careful regard to its context and would use appropriate scale, mass and materials. It would enhance the character and appearance of the TC, having been informed by historic conservation considerations. It is the result of an iterative design process that has taken account of the views of Historic England since their initial letter of 29 July 2015, in relation to the Belvedere<sup>66</sup>, the walls that would be close to the Manor House and the Lantern and elevations on the High Street<sup>67</sup>, the latter having been amended prior to the grant of planning permission, the former having been recently approved by the Council<sup>68</sup>. Archaeology present would be protected by condition 29 to the planning permission.
- 5.121 Mr Phipps confirmed that the Scheme's effect on the Manor House would be acceptable. It was on this basis that the Trustees and the occupiers of the Tea Room withdrew their objections. The overall effect on the Manor House would be beneficial<sup>69</sup>.
- 5.122 The suggestion for a wide arch opening from High Street to the Scheme was not put forward in the form of a proposal at the Inquiry. Mr Prentice confirmed that it would not be feasible as greater visibility in and out of the Scheme would be required, in any event<sup>70</sup>.
- 5.123 Overall, the proposed development would make a positive contribution to preserving and enhancing the character and appearance of the SCA and the setting of the relevant listed buildings. Importantly, the Scheme has planning permission and relevant listed buildings consents. It would be inappropriate for the acceptability of the Scheme to be re-visited, particularly when the Secretary of State has decided not to call in the planning application.
- 5.124 *Highways and Transport:* The Order Lands are highly accessible by alternative means of transport and are the kind of sustainable location where development should take place in accordance with Government and local policy, which encourages retail development in town centres<sup>71</sup>. Furthermore, the traffic impact of the Scheme has been assessed and found acceptable<sup>72</sup>. Loss of on-site parking and lack of additional parking, access, servicing and loss of the informal drop-off in Manor Square are provided for by the Scheme. Recent data compiled at Manor Square could not be provided to the Inquiry in the short time scale available.
- 5.125 The drop-off and pick-up facility in Manor Square is informal, at present, although it appears that it was originally intended to be provided formally<sup>73</sup>.

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66 Mr Brambles proof page 33, 64, 30 (which include submissions pursuant to conds 32 and 33 of PP)

67 Mr Phipps proof 5.12

68 IQ28 & IQ29

69 Mr Phipps proof 6.11-6.17

70 Proof and oral evidence of Mr Prentice

71 CPO Proof of Mr Jones 4.2.8-4.2.22

72 CPO Proof of Mr Jones 5.4 and SoCG section 6

73 CPO Proof of Mr Jones 4.2.30-4.2.35

New Drop-off facilities would be provided in Drury Road, Homer Road and TWI car park, with additional signage to ensure that the public would be made aware of the new facilities<sup>74</sup>. There is no intention to create a drop-off facility at The Square<sup>75</sup>.

- 5.126 Even though TWI car park is busy at times, provisions within the section 106 agreement ensure that the Council, along with other responsible TC car park operators, review car parking provision and pricing in the TC. This would help to ensure that parking is spread more evenly across the TC.
- 5.127 At Drury Lane, two disabled parking spaces would be lost and three at Manor Square. Seven new spaces would be provided in the new Council House access road, available at weekends and outside working hours. Further, there are over 190 such spaces in the TC, with over 90 of those close to TW. Thus the loss of the specified spaces is acceptable<sup>76</sup>.
- 5.128 *Parking*: This is provided in accordance with LP Policy P2, which accords with Government guidance on sustainable travel<sup>77</sup>. There would still be sufficient TC public parking, as on average 2,000 spaces are available on week days, 1,200 at weekends and even at the busiest times 500 spaces are available including 200 in the main TC car parks<sup>78</sup>. This does not include Monkspath Hall Road car park. The additional parking demand arising from the Scheme would be 200 spaces weekdays and 250 at weekends. Therefore, there would be sufficient parking available, even at peak periods. It was confirmed at the Inquiry that this would be the case even if Morrisons were to close its car park.
- 5.129 Operational parking to the rear of affected properties would be replaced either within the Council House parking area or on the TWI roof level service deck.
- 5.130 *Other Highway Related Matters*: Amendments have been made to the SUO to omit unnecessary areas of footway on Church Hill Road. Mr Jones confirmed that Manor Walk would be well lit, appropriately surfaced and would have CCTV along its length with three shops, the Manor House, its garden and tea room that would overlook it. If gating were found to be necessary in the future, that could be carried out under statutory powers without Stopping-Up being required<sup>79</sup>.
- 5.131 The turning radius at the access from Church Hill Road has been so designed and approved by the Highway Authority, taking into account the likelihood of few goods vehicle deliveries. Access for emergency services and the requirements of fire and police services have been designed into the Scheme through detailed consultation with those services<sup>80</sup>.
- 5.132 *Need for all the Order Lands*: The whole of the Order Lands are required for the Scheme to take place and bring its substantial contribution to the TC's vitality and viability.

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74 CPO Proof of Mr Jones 5.4.45-5.4.13

75 CPO Proof of Mr Jones 6.3.10-11; Road closure proof 6.2.5

76 CPO Proof of Mr Jones 5.5.22-5.5.24

77 CPO Proof of Mr Jones section 5.5

78 CPO Proof of Mr Jones section 5.5.6 and 5.5.12

79 Under Chapter 2 of the Anti-Social Behaviour, Crime Policing Act 2014.

80 Road Closure Proof of Mr Jones 6.6.2-6.6.4

5.133 *Human Rights*: The human rights of those affected by the Order have been taken into account. The very significant economic, social and environmental benefits cannot be achieved without the whole of the Order Lands and therefore the benefits outweigh any impact on human rights of individuals.

### **Section 3 – The Withdrawn Objection**

5.134 One objection, from Solihull School Limited to the SUO was withdrawn during the course of the Inquiry. This is dated 16 May 2016.<sup>81</sup>

## **6. INSPECTOR'S CONCLUSIONS**

6.1 ***(Numbers in square brackets refer to relevant sections or paragraphs in this report)***

### **CPO**

6.2 The CPO seeks to acquire rights and ownership of land shown on the Order Map for the purpose of securing development, redevelopment or improvement, by way of a retail-led mixed-use scheme comprising an extension to Touchwood Centre, including retail and leisure floorspace, public realm and associated highway works. It is made under Section 226 (1) (a) of the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004). The power granted is intended to assist a local authority to fulfil its duties (under Section 2 of Local Government Act 2000) of promoting the economic, social and environmental well-being of its area.

6.3 DCLG Guidance on Compulsory purchase process and The Crichel Down Rules for the disposal of surplus land acquired by, or under threat of, compulsion (2015) at paragraph 76 sets out the factors that the Secretary of State will take into account in deciding whether to confirm an Order under section 226(1)(a). Having regard to the relevant guidance, heard the case for the Council, read and heard from those opposing the Order and appraised all other evidence, my recommendation is based on consideration of the following:

- Whether the purpose for which the land is to be acquired fits in with the adopted planning framework for the area;
- The extent to which the proposed purpose will contribute to the achievement of the promotion and or improvement of the economic, social or environmental well-being of the area;
- Whether there are likely to be any impediments to the Scheme going ahead;
- Whether the purpose for which the land is proposed to be acquired could be achieved by any other means;
- Whether the specific objections presented by landowners and non-statutory objectors could be addressed without recourse to compulsory acquisition or by any other means;

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81 IQ21



- Whether there is a compelling case in the public interest for the Order.

***Whether the purpose for which the land is to be acquired fits in with the adopted planning framework for the area***

- 6.4 The LP was adopted in 2013, and is an up to date plan and accords with the Framework. An overarching aim of that LP is to achieve sustainable development as set out in paragraph 7.1. Paragraph 7.1.11 identifies Solihull TC as being of crucial importance to community, civic and business activity in the Borough and the economic and social well-being of the TC. [4.2]
- 6.5 The Solihull Retail, Leisure and Offices Update 2011 identified a qualitative and quantitative need for further retail development in Solihull. This is reflected in LP Policy P2. This sets out the requirement to maintain strong, competitive TCs, setting out that Solihull will be developed and sustained as a place of quality and distinction with a focus on retail and commercial uses in order to provide additional comparison goods retail floorspace required by 2021. [4.2 5.59, 5.27, 5.42, 5.48, 5.58, 5.61, 5.77, 5.95, 5.107, 5.115, 5.119]
- 6.6 The LP identifies the TWII Development Opportunity site, which includes the Order Lands as part of a wider Solihull TC Strategy. Even though the Solihull TC Spatial Strategy Diagram at Figure 12 of the LP does not include historic and listed buildings on High Street within the TWII Development Opportunity, I acknowledge that it is diagrammatic only. I accept, as explained by Mr Goddard in his oral evidence, that to do so would indicate that demolition of listed buildings would be acceptable. Furthermore, I consider that, when read with the Solihull TC Strategy Design Principles, particularly the first two, it is clear that new streets and spaces linked to High Street are intended, along with the positioning of new pedestrian linkages to High Street, to avoid the loss or adverse impact on listed buildings. It also suggests that development should maximise the visual link across High Street to Drury Lane to stimulate activity at the eastern end of High Street. This suggests that development up to High Street is intended. Moreover, I am persuaded that the Scheme would overall meet the seven Design Principles set out as part of the Solihull TC Strategy. [4.2 4.3-4.10, 5.6]
- 6.7 The Scheme would also advance other policies of the LP, in particular, those relating to economic impact, heritage and design, landscape, ecology, amenity, drainage, sustainability, highways and developer contributions. As the Scheme is needed for the continued and increased strength of Solihull TC, it would also accord with section 2 of the Framework, which promotes viable, vital and competitive TCs. [4.11, 4.12-4.19]
- 6.8 Planning permission has been granted for the Scheme which includes a planning obligation to mitigate against any harm that would be a consequence. Furthermore, listed building consents have been granted, relating to the demolition of the rear extensions to the listed buildings on High Street and The Square and reconfiguration to facilitate the interface with the Scheme. The planning permission and listed buildings consents accord with the LP and the Framework. A draft SUO is before the Inquiry. Therefore, I conclude that the Scheme would fit in with the adopted planning framework for the area. [3.1-3.5, 5.32, 5.35]

***The extent to which the proposed purpose will contribute to the achievement of the promotion and or improvement of the economic, social or environmental well-being of the area***

- 6.9 The Scheme would, overall, make a substantial contribution to the economic, social and environmental well-being of the area. I will deal with each in turn.
- 6.10 *Economic Benefit*- The Scheme would contribute towards meeting the forecast need for additional retail floorspace identified in the LP. The LP is based on a sound and robust evidence base, which identified that need. The need and capacity for new retail development in the TC was reassessed by Mr Goddard in his evidence. He concluded that there was both need and capacity for additional retail development in the TC. Overall, on the basis of the evidence before me, I am satisfied that there is substantial evidence of a quantitative need for the Scheme and that it would meet that need. [4.2, 4.12, 4.19, 5.47, 5.49]
- 6.11 There is also a qualitative need for additional development in the TC. This is to address the needs of modern retail requiring larger units, the lack of restaurants and cafes and evening uses and the general attractiveness of the TC. To retain its position in the regional hierarchy, it is necessary that investment in the TC continues in the face of competition from other regional centres that have had major enhancements to their retail provision. In light of these matters, I accept that investment to improve the vitality and viability of the TC is necessary, if it is to retain its position in the retail hierarchy. Although objectors questioned the need for the development, no substantive evidence was put to me to seriously challenge the Council's position on this matter. [4.13, 4.14, 5.19, 5.42, 5.77, 5.95, 5.97, 5.107, 5.115, 5.119]
- 6.12 There would be benefits in terms of employment opportunities in an accessible location. Mr Goddard calculated that in the region of 500 jobs would result during the construction phases and 400 permanent full time equivalent jobs once it is trading, figures that were uncontested. No alternative substantive evidence is before me in this regard. This would be a significant economic benefit even taking into account the losses identified related to existing businesses. [4.16, 5.5, 5.13, 5.20, 5.27, 5.31, 5.34, 5.47]
- 6.13 The Scheme would involve the loss of some small independent uses, including office uses, particularly within the units fronting High Street that would be demolished or reconfigured. This could erode Solihull's unique and varied retail offer. However, there would be the option for existing businesses to seek premises within the Scheme, as it was explained by Ms Beaverson that some small units would be available at market rents. [5.5, 5.19-5.24, 5.27, 5.55, 5.62, 5.72, 5.84, 5.95-5.96, 5.98]
- 6.14 The Scheme would involve the loss of a class A4/nightclub and would not include its replacement. However, Mr Prentice explained in his oral evidence that a pub/nightclub on High Street, near to the new link from High Street would not be commercially viable. There is no evidence to suggest a need for more pubs in the TC. Overall, in these circumstances, I consider that the benefits of the Scheme that I have identified would outweigh that loss. In any event planning permission could be sought for a change of use to

accommodate such a use, once the Scheme has been built, if a user wished to locate within the Scheme. [5.5-5.7, 5.12-5.13, 5.95, 5.107]

- 6.15 *Environmental Benefit*- The Scheme would comprise high quality development that would, generally, successfully integrate with the existing TC fabric. It would follow the principles of development set out in the TWI. Having read and listened to all the evidence, the harm that would result from the loss of historic buildings in the SCA, including buildings on High Street and The Priory sited outside the SCA, together, would be outweighed by the clear heritage advantages of the Scheme. These include, its appropriate and high quality modern design, the removal of rear additions to listed buildings in High Street and The Square, the more effective integration of St. Alphege with the TC retail development and improved access to heritage assets within the Order Lands by providing a pedestrian link from High Street. By contributing to the economic revitalisation of the TC, it would also help to secure the future of those heritage assets. When taken as a whole, therefore, the Scheme would preserve the character and appearance of the SCA and the significance of other heritage assets. [4.3-4.9, 4.17]
- 6.16 *Social Benefit*- The Scheme, in providing substantial economic and environmental benefit would also provide social benefit, in terms of additional and enhanced retail facilities in a very accessible location, along with additional employment opportunities. By reducing the need for local people to travel to other regional centres to access a better range of goods and services, it would contribute to more sustainable travel patterns. Even though the drop-off and pick-up facility and disabled parking spaces at Manor Square would be lost, re-provision is included in the Scheme. However, I accept that some limited social harm to those people accustomed to using those facilities in the current position would result. It would also result in the loss of existing businesses, and some small businesses, which would result in some social harm. However, these matters are all outweighed by the substantial public benefits provided by the Scheme. [5.5-5.7, 5.12-5.13, 5.19-5.24, 5.26-5.28, 5.31-5.34, 5.38-5.40, 5.45, 5.52, 5.54, 5.60-5.62, 5.66-5.67, 5.72, 5.84, 5.86, 5.91, 5.95, 5.116, 5.108-5.114, 5.125-5.127, 6.9-6.16]

***Whether there are likely to be any impediments to the Scheme going ahead***

- 6.17 Planning permission and the relevant listed building consents are in place. A draft SUO, if made, would secure the necessary road closures. Therefore, I am content that there are no planning impediments to the Scheme proceeding. [3.1-3.5, 5.32, 5.35]
- 6.18 I found the evidence with regard to the demand for the proposed retail units convincing. Ms Beaverson confirmed that discussions are advanced with a potential anchor retailer along with two major national retailers not represented in Solihull. Further, Mr Prentice confirmed demand from 80 retailers and 40 caterers for over 80,000 sq. m of floorspace in the Scheme. No substantive evidence to the contrary is before me. [4.23]
- 6.19 It was confirmed that the developer, LLRP, has entered into a development agreement with the Council. LLRP is confident that the conditions of

agreement will be fulfilled, once the CPO is confirmed. The Council confirmed that it was also satisfied in this regard and I have no reason to take an alternative view. Further, both the Council and LLRP are satisfied that the Scheme is viable and that funding will be in place to implement it when the Order is confirmed and the SUO is made. In the absence of substantive evidence to the contrary, I have no reason to take an alternative view on this matter. It was confirmed at the Inquiry that LLRP had invested substantially in the Scheme to date, which is a further indication of its confidence in the viability of the Scheme. [4.25]

***Whether the purpose for which the land is proposed to be acquired could be achieved by any other means***

- 6.20 Objectors suggested that the Scheme could take place elsewhere in the TC, particularly at Mell Square. However, it was confirmed at the Inquiry that development at Mell Square is proposed as small scale infill and in any event it could not accommodate the size of development proposed as part of the Scheme. [4.20, 5.43, 5.118]
- 6.21 The purposes of the Order are specific to the Order Lands. Furthermore, in view of LP Policy P2 and the Solihull TC Strategy and Design Principles, I agree that the promotion of the TC's vitality and viability requires the extension of TWI. I therefore accept that there is no suitable alternative location for the Scheme to realise the economic, environmental and social benefits envisaged by LP Policy P2. [4.20, 5.43, 5.48]
- 6.22 Despite some suggested alternative approaches, no alternative scheme is before me. I consider that the Scheme is a complete and integrated whole. It relies on the development agreement between the Council and LLRP, planning permission and listed building consents to bring about all the elements of development sought by LP Policy P2. No evidence is before me to demonstrate that piecemeal development would be able to realise the social, economic and environmental benefits envisaged within the LP. [4.21, 5.52]
- 6.23 Some objectors suggested that their interests were not required for the Scheme to realise those benefits identified. However, I found no convincing reason to exclude any of the plots in the Order. My reasons follow.
- 6.24 **Plots 9, 19, 20, 21: 138-144 High Street (Stonegate).** I heard convincing evidence that the wider benefits sought by LP Policy P2 would not be realised if a class A4/nightclub use were incorporated within the Scheme on the High Street, as suggested by Stonegate. Such a proposal would reduce the overall Scheme's viability and threaten its realisation. At the least it would be likely to reduce the benefits, in terms of increasing footfall at the east end of High Street and the other benefits cited. [5.5-5.7, 5.12-5.13]
- 6.25 **Plots 20 and 21: 142 and 144 High Street.** Whilst not demolished as part of the Scheme, it would be reconfigured to meet modern occupiers' requirements. This would be necessary to ensure that the Scheme met the Design Principles set out in LP Policy P2 and delivered the benefits intended by that policy. The resulting premises are unlikely to suit the existing leaseholders' needs and in any event, the existing leaseholders could not be in place during construction. I consider that there are sufficient reasons to render

its acquisition necessary to implement the planning permission. [5.37, 5.39-5.40, 5.54, 5.60]

- 6.26 **Plot 23: 150 High Street.** This is required to provide the visual and physical link from High Street into the Scheme whilst avoiding demolition of the nearby listed buildings. Such a link is required to integrate the Scheme into the townscape and increase footfall at the east end of High Street to meet the Design Principles set out in the Solihull TC Strategy and the aim of LP Policy P2. [5.19-5.24, 5.26-5.28]
- 6.27 **Plots 24, 35 and 36: 152 High Street.** This landholding is required to reconfigure the rear of the unit and to create a new unit to reinforce the entrance to the Scheme and strengthen footfall at the east end of High Street. The landholding could not be excluded from the Scheme if the physical and visual link through from Drury Lane were to be realised. [5.54-5.64]
- 6.28 **Plots 27, 28, 25, 26, 27, 28, 30, 33, 34, 35, 36, 37: 156 High Street, 2-6 The Square, 2 and 4 Manor Square.** These landholdings that include rear parking areas are required to implement the planning permission, in particular, to create the Island Block and provide the link through from High Street, continue the retail circuit and increase footfall at the east end of High Street, whilst retaining listed buildings. [5.45, 5.52, 5.66-5.67]
- 6.29 **Plot 4: Manor House.** Non-statutory objectors questioned the need for the parking area to the rear of the garden to the Manor House to be included in the CPO. However, this is necessary to implement the planning permission. It is required to realise the link through from High Street at that point and to provide units of sufficient size to meet modern retail demands. [5.75, 5.79, 5.93, 5.100, 5.106, 5.116, 5.121]
- 6.30 In conclusion, I have found that there are no reasonable alternatives to the Scheme to achieve the level of benefits sought by the Council as part of a comprehensive scheme. Further, there is no convincing reason to exclude these plots from the Order. Therefore, the land and rights identified are all essential to realise the Scheme. [4.20-4.21, 5.119, 5.121]

***Whether the specific objections presented by landowners and non-statutory objectors could be addressed without recourse to compulsory acquisition or by any other means***

**Order Lands Plots 27, 28, 29, 30, 31, 32, 33, 34, 35: 2-6 Manor Square and 2-6 The Square**

**Name of Objector: Cityforce Investments Ltd**

- 6.31 The objector wishes the Council to acquire more of its landholding, to include the older listed properties on The Square. However, a CPO should only acquire land that is necessary for the Scheme to proceed. Whilst it may be the case that the investment value of the properties would be reduced, this is a matter to be addressed through compensation, rather than a matter for me. [5.2, 5.3]

### **Order Lands Plots 9, 19, 20, 21: 138-144 High Street**

#### **Name of the Objector: Stonegate Pub Company Limited (Stonegate)**

- 6.32 As the notice given for the Inquiry complied with the statutory minimum timescales, I concluded at the Inquiry that it should continue. Regarding negotiation that took place, the evidence suggests that the Council sought to acquire land and rights by negotiation, both before and after the CPO was made. Parties were initially contacted by LLRP early in 2015 and from that time, evidence is before me to suggest that it has continued to encourage landowners to enter into discussion. It encouraged parties to agree measures to overcome objection or loss, provide assistance in relocating and where agreement has not been possible in this regard to enter into agreement for acquisition. That, at the time of the Inquiry, it had been successful in reaching agreement for a large number of the plots adds weight to this conclusion. I find no reason to believe that reasonable efforts to negotiate to acquire the objectors' land has not taken place and that it was not fair, open and proactive and that the negotiations were not prejudicial to any parties. [1.1-1.2, 5.10, 5.14-5.16, 5.21, 5.30, 5.33]
- 6.33 On the basis of the previous extensions, in relation to 136-144 High Street, the siting, scale and detailed design of the extensions proposed would preserve the special architectural and historic interest of that property, even though it would be visible from the High Street. Whilst it would be large, and it would have an angled alignment, a condition<sup>82</sup> attached to that listed building consent would ensure a satisfactory interface with the historic fabric. Historic England did not withdraw its original objection and listed building consent was granted in the absence of an internal survey. However, Mr Phipps confirmed that Historic England did not raise objection to the grant of listed building consent, being content that condition 4 ensured an appropriate interface with the historic fabric. Whilst it is suggested that such development and works are not shown on the master plan attached to the development agreement, I agree with the Council that such a proposal would not necessarily retain the historic plan form of the listed building. [5.8, 5.17, 5.75-5.76, 5.79-5.82, 5.85, 5.106, 5.122-5.125]
- 6.34 The objector agrees that all of its landholding is required to implement the Scheme. Further, it acknowledges its wider benefits. However, it suggests that those wider benefits could be realised without the loss of its businesses. This and other matters raised by the objector are considered earlier in my report. Overall, the interference with Human Rights that would be a consequence of the Scheme would be justified in light of the public benefits that would result. [5.4-5.18, 6.14]

### **Order Lands Plots 23: 150 High Street**

#### **Name of the Objector: BB Boutique Limited (Lessees of 150 High Street)**

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<sup>82</sup> Condition 4 attached to listed building consent PL/2015/51465/LBC

- 6.35 This unit is necessary to implement the Scheme for the reasons set out earlier in my report. It would result in the loss of this small, independent, family run business, which contributes to the rich and varied retail offer in Solihull. This would be regrettable. However, there would be substantial benefits to the vitality and viability of the TC as a whole, including independent retailers and businesses, which would outweigh this loss. Further, there would be units suitable for independent retailers within the Scheme. These would be available at market rents, which the objector suggests would be too high. However, there is no requirement for the Scheme to provide units at less than market rents. It was suggested that there was some adverse impact on the success of the business due to the Order. However, this is a matter for compensation. [5.19-5.28]

**Order Lands Plots 22: 146-148 High Street**

**Name of the Objector: Revital Limited (Lessees of 146-148 High Street)**

- 6.36 Planning permission has now been granted for the Scheme and I have found that there would be no planning impediments to its implementation. Whilst the uncertainty surrounding the Scheme may have impacted negatively on the success of some businesses, this is a matter to be addressed through compensation. Whilst the Scheme would result in the potential loss of this business, its employment and contribution to the TC, which is regrettable, overall the benefits of the Scheme to the TC as a whole would outweigh that loss. [5.29-5.35]

**Order Lands Plots 19, 20: 142 High Street**

**Name of the Objector: Coral Racing Limited (Lessees of 142 High Street)**

- 6.37 The loss of this small business which is an established operator in the TC is again regrettable, but would be outweighed by the substantial benefits to the TC as a whole expanded upon elsewhere in this report. If suitable premises could not be found, that would be a matter for compensation and not for me. [5.36-5.40]

**Order Lands Plots: 25, 26, 27, 28, 30, 33, 34, 35, 36, 37**

**Name of the Objector: Ruxton Independent Estate Agents & Valuers LLP; Pearcelegal Limited; Nisar Feroz Khan Dental Practice Manor Square; Anthony Stockton Solicitors (Lessees of 156, High Street: 2, and 6 The Square and 2 and 4 Manor Square and associated parking spaces)**

- 6.38 There is both a quantitative and qualitative need for the development. Demand for it has been demonstrated. There is no evidence that the Scheme would adversely affect Mell Square and the owner of Mell Square supports the Scheme in recognition of its wider benefits for the TC as a whole. There would not be scope for the amount of development required to be accommodated within Mell Square.

- 6.39 The revised listed building consent has ensured that access to all parts of 158 High Street is accommodated. Traffic and parking impacts, including operational access and parking have been assessed and considered acceptable. All of the objectors' land is required to provide the link from the High Street, the Island Block and to complete the retail circuit at the east end of High Street, to increase footfall and meet the aims of LP Policy P2. [5.41-5.52]

**Order Lands Plot: 21, 24, 35, 36: 144 and 152 High Street**

**Name of the Objectors: Sporting Barbers UK Limited (Lessee of 144 High Street) Solihull and Shirley Estate Agents Ltd trading as Melvyn Danes (Lessee of 152 High Street)**

- 6.40 The need for the development, including for the class A3 uses, parking and traffic impacts, are discussed elsewhere in my report. I have no substantive evidence to demonstrate that a two tier centre with a less successful TWII compared with TWI would result. I come to this conclusion in light of its integration with TWI and the TC generally. 144 High Street is required to reconfigure the unit to meet modern retailers' needs and create an effective anchor store. Given the amount of alteration necessary it would not be feasible for the existing users to remain in the property, particularly during construction. 152 High Street is necessary to achieve a viable scheme to provide units to meet modern retail needs and reinforce footfall at the east end of High Street. Whilst an alternative entrance to the Scheme is suggested, I have no substantive evidence on this matter.
- 6.41 The Scheme would result in the loss of these businesses. There is no provision for offices in the Scheme as it is conceived to address the identified need for class A1 and A3 uses as set out in LP Policy P2. For this reason the Scheme would meet the provisions of that policy. The objector could seek to be accommodated within the Scheme, by applying for planning permission for a change of use. Whilst there may be a shortage of office premises at an affordable rent, there is no planning policy requirement for below market rents. Traffic and parking impacts have been dealt with elsewhere in my report. [5.53-5.64]

**Order Lands Plots 27, 28: 4-6 The Square**

**Name of the Objector: Stephen Michael Perkins (Lessee of part of 4-6 The Square)**

- 6.42 Alternative, convenient operational parking is adequately addressed in the Scheme. Whilst disruption during construction would be an inevitable consequence, any impact on business performance would be a matter for compensation.
- 6.43 In conclusion, there is no other means of securing the above plots, as agreement has not been reached. Therefore, acquisition of the lands and rights specified in the Order is necessary. [5.65-5.68]
- 6.44 I will now go on to address general objections and those raised by the non-statutory objectors not addressed earlier in my report.



- 6.45 *Principle of Development, the need and demand*- Many objectors questioned the need for the development and the demand. I have addressed these matters already. [4.2-4.19, 5.19, 5.27, 5.42, 5.47, 5.48, 5.58, 5.61, 5.77, 5.95, 5.97, 5.107, 5.115, 5.118-5.119]
- 6.46 *Negotiations*- Some objectors suggested that insufficient efforts had taken place, to reach agreement by negotiation in order to comply with DCLG guidance, in as much as it had not been timely, fair, open and proactive. I address this matter under my comments on Stonegate's objection. [1.1-1.2, 5.10, 5.14-5.16, 5.21, 5.30, 5.33]
- 6.47 *The Planning Permission and Listed Building Consents*- The Council's consideration of the Scheme concluded that, as a whole, it would be in the public interest. I appreciate that some interested parties at the Inquiry sought to revisit the planning merits of the Scheme. However, some continued objection to the principle of the Scheme is not a good reason in itself not to make the CPO. The Council's grant of planning permission and listed building consents would be unaffected by my findings in any event. The objections of interested parties were taken into account by the Council in granting planning permission and the listed building consents. At the Inquiry, the Council introduced fresh material to substantiate its position. That does not, in itself, amount to a material change in circumstances, to alter the Council's earlier decisions. Accordingly, there is not reason for me to reassess the planning merits of the Council's decisions. Nevertheless, I have taken account of the Council's additional material when assessing impacts on heritage assets and other matters, as part the overall case for making the CPO. [3.1-3.5, 5.32, 5.35]
- 6.48 In this regard also, no substantive evidence is before me that the Council inappropriately attached weight to the provisions of the section 106 agreement. In any event, the provisions of the section 106 agreement are required to be necessary, directly related to the development and fairly and reasonably related in scale and kind, which gives me assurance on this point. [3.4, 5.76]
- 6.49 Objection was also raised on the basis that the Council did not raise a conflict of interest on the basis that its offices were to be remodelled as part of the development. However, the planning permission does not include those works. Neither do I have any substantive evidence before me to suggest that the Council apportioned inappropriate weight to that consideration in determining the relevant applications. [5.90, 5.94]
- 6.50 *Historic Environment*- Many non-statutory objections to the CPO and objections to the SUO, include considerable opposition regarding the Scheme's impact on the historic environment. Having considered the Council's committee report<sup>83</sup> its consideration of the planning application addressed the effect on the historic environment in detail. It considered the loss of unlisted buildings in the SCA, the effect on the listed building stock, their settings and the effect on the character and appearance of the SCA generally. On this basis

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<sup>83</sup> CD21

it concluded that the Scheme, as a whole, was acceptable and in the public interest. In this respect, I consider that the Council took account of all relevant matters. Whilst the evidence of Mr Phipps sought to substantiate those decisions, there is nothing before me to take a different view regarding the Council's overall decisions.

- 6.51 It made its decisions on the basis of concern raised by the Conservation Advisory Committee, which is documented in the Committee report [CD21 page 163], along with the views of many interested parties. The Council continued negotiation with Historic England to resolve its initial concerns raised in its letter dated 29 July 2015, in relation to the planning permission, which were addressed through design amendments to The Lantern and by attaching conditions to the relevant planning permission<sup>84</sup>, to ensure that its impact on the Manor House and St. Alphege and nearby listed buildings was appropriate. [5.9, 5.17, 5.85]
- 6.52 In relation to detailed concerns, I comment as follows.
- 6.53 SCA- The Scheme would involve the loss of unlisted buildings within the SCA on High Street. Whilst they make a positive contribution to the SCA's character and appearance their retention would not be possible if the link from Drury Lane and High Street were to be realised along with the provision of larger units to suit modern retail needs. Development which would replace them would be well related to its context. As the proposed Scheme would be appropriately designed, in terms of its layout, scale, use, form, grain and detailing, taking account of the public benefits, I consider that, overall it would be acceptable and in the public interest. [4.4-4.9, 5.19, 5.26, 5.34, 5.87, 5.116, 5.123]
- 6.54 The inclusion of a wide arch within those buildings to provide the link from High Street would not be feasible. Whilst no detailed proposal was before the Inquiry, I agree that it would not provide the necessary visibility into the new pedestrian link and that could adversely affect the Scheme's commercial viability. [5.80, 5.87, 5.122]
- 6.55 The demolition of the Priory, which is not within the SCA, although a pleasant, well-proportioned and detailed building, is required to accommodate the new arcade and New Court, terminated by the Belvedere fronting onto Church Hill Road linking St. Alphege to the TC. Overall, the high quality layout and design of the proposed development and its substantial public benefits would outweigh that loss. [4.6, 5.83]
- 6.56 *Listed Buildings*- The Scheme would retain all listed buildings and would include the removal of unsympathetic rear extensions to 136-144, 158 High Street and 6 The Square, which would generally be a benefit. Matters in relation to 136-144 High Street are dealt with under my comments to Stonegate's objection. [5.8, 5.17, 5.75-5.76, 5.79-5.82, 5.85, 5.106, 5.122-5.123]

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<sup>84</sup> Conditions 32 and 33 attached to planning permission PL/2015/51464/MAJFOT

- 6.57 Much concern was raised regarding the effect of the Scheme on the setting of St. Alphege and on the Manor House. Condition 32 of the planning permission ensured some changes to the elevations that would surround the Manor House and its garden. A sunlight and daylight report<sup>85</sup> indicates that, whilst sunlight would be reduced, the impact of the Scheme would be satisfactory on the Manor House garden. Whilst I consider that some harm would have resulted to the setting of the Manor House as part of the original planning permission, I agree that this has been overcome by the measures taken in the discharge of condition 32 to the planning permission. [4.6-4.9, 5.89, 5.93, 5.100, 5.104, 5.106, 5.115, 5.120- 5.123]
- 6.58 I accept that the redesign of The Belvedere elevation fronting Church Hill Road, as required by condition 33 to the planning permission, would as part of the overall Scheme, preserve the setting of St. Alphege and that of other listed buildings nearby, even though it would be closer than existing buildings. No evidence is before me to demonstrate that its glazed elevation would harm the stonework to St. Alphege. [4.6-4.9, 5.89, 5.93, 5.100, 5.104, 5.106, 5.115, 5.120- 5.123] Archaeology would be protected by condition 29 attached to the planning permission. [5.89, 5.120]
- 6.59 *Traffic and Highways* - With regard to the traffic and parking impacts, these matters were put into the planning balance as part of the Council's consideration of the Scheme when it assessed the harm against the benefits and it concluded that the Scheme, as a whole, would be in the public interest. In the absence of fresh material or a change in circumstances, this is not a matter which I should reassess as part of my deliberations. The cumulative traffic impact was considered to be minimal and nothing is before me to lead me to a different view. All traffic studies undertaken to support the Scheme planning application were available to the Inquiry. [4.2-4.3, 4.11, 5.25, 5.45, 5.51, 5.57, 5.63, 5.99, 5.116, 5.124, 5.128]
- 6.60 Whilst the Scheme does not provide additional car parking, this is in accordance with LP Policy P2, which seeks that additional public parking will only be accepted where it can be shown that there is insufficient public parking already available. Further, the Order Lands are highly accessible and its development in the way proposed would contribute towards promoting sustainable travel modes. As a result of the Scheme, there would still be spare car parking capacity in the TC, even at the busiest times, a calculation that excludes Monkspath Hall Road Car Park which is some distance from the Order Lands. [5.112, 5.130-5.131]
- 6.61 The turning radius at the access from Church Hill Road to the Council premises was carefully considered as part of the planning application and took account of the likelihood that there would be few goods vehicles deliveries. On this basis and on my previous comments regarding the Council's deliberations on the planning application, and the lack of substantive evidence to the contrary, I have no reason to take an alternative view on this matter. The proposed arrangement was agreed with the Highway Authority and Mr Jones confirmed

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<sup>85</sup> Proof of evidence of Mr Phipps

- that in the event that an alternative arrangement was found to be necessary, this could be done at that time. [5.74, 5.92, 5.131]
- 6.62 Fire, police and emergency services were all consulted and their comments taken into account in both the design and consideration of the planning application and listed building consents. [5.79, 5.93, 5.102, 5.113, 5.131]
- 6.63 *Servicing-* Although some units on the High Street and The Square would lose their vehicle access at the rear, their car parking and existing servicing areas, this would be re-provided. Car parking would be provided in the Council office's car park or on the TWI service deck, both of which would be accessible and convenient locations. Servicing would be provided either from roof level as for existing TWI units or from Drury Lane and High Street, out of hours. In this regard I have no reason to take an alternative view to the Council. [5.79, 5.93, 5.100, 5.129]
- 6.64 *Drop-Off and Pick-Up Points and Disabled Parking-* The Scheme would involve the loss of Manor Square and part of Manor Walk. This would include the disabled car parking spaces and the drop-off and pick-up point within Manor Square. This is of concern to many interested parties. [5.86, 5.99, 5.108, 5.109-5.114, 5.116, 5.125-5.127]
- 6.65 Regardless of whether the existing pick-up and drop-off point in Manor Square is formal or not, there would be alternative provision in Homer Road, Drury Lane and TWI car park. Additional TC signage would be provided to ensure that the public are aware of the new provision. [5.125]
- 6.66 Concern was expressed by objectors that alternative provision was unsuitable. However, even though TWI car park is very busy at times, measures within the section 106 agreement, to review car parking provision and pricing in the TC, would help to spread parking amongst those underused car parks and reduce parking in those heavily used such as TWI. I observed, on my site visit, that the route from the car park to the shopping level would be appropriate for those with disabilities. Whilst the drop-off in Homer Road would involve a slightly uphill route to the shops and other facilities, it would provide another alternative, along with that at Drury Lane. These measures, together, would ensure suitable access would be possible to all TC facilities, notwithstanding the loss of the facility at Manor Square. [5.126-5.129]
- 6.67 The proposed drop-off facility at Drury Lane would result in the loss of disabled car parking spaces, in addition to those that would be lost in Manor Square. However, seven disabled spaces would be provided within the new Council access road, which would be available to the public outside office working hours. In any event, there would be sufficient disabled parking within the TC as there are just over 190 spaces at present with over 90 available close to Touchwood. [5.125-5.129]
- 6.68 In conclusion, relocation of a drop-off facility and disabled spaces currently in Manor Square, although I have found that they would be re-provided adequately in convenient locations elsewhere in the TC, would be likely to be some disadvantage to some people currently accustomed to using those facilities. I therefore identify some limited harm. Recent data regarding traffic and other activity at Manor Square was collected to inform alternative drop-off

provision at Drury Lane. It would not affect this conclusion, as I have been made aware of the value placed on that facility by the community. Further, it would not affect the planning permission and listed building consents already granted. [5.105, 5.124, 5.127-5.129]

*Manor Walk*- There was objection that the proposed realigned Manor Walk would be unsafe, as it would have a bend in it. The concern voiced was that it would attract anti-social behaviour and rough sleepers, particularly at night. However, the route would be well lit, appropriately surfaced, would include CCTV and would have some retail units overlooking it. In any event, if it did become unsafe or attracted anti-social behaviour, the Council could gate the entrance from High Street at night, under statutory powers, at a later date, without Stopping-Up being required. [5.73, 5.88, 5.130]

***Whether there is a compelling case in the public interest for the CPO***

- 6.69 The Order Lands are needed to successfully and effectively implement comprehensive development, designed to contribute to a substantial extension to the Solihull retail offer. For the reasons given above, overall, the benefits to the TC and to the wider community are substantial and would considerably improve the well-being of the area. [4.28, 6.9-6.16]
- 6.70 The Council has considered the impact on the Human Rights of those affected by the Order. In particular, it has had regard to the rights to the peaceful enjoyment of possessions<sup>86</sup>. Although owners and occupiers will be deprived of their land, the interference with Human Rights would be justified by the public benefit arising from the scheme. Furthermore, the requirements of Article 6 have been satisfied, in as much as any person with an interest in the Order Lands has had the opportunity to make representation and to appear at this Inquiry. [4.26, 4.28]
- 6.71 In relation to the Equalities Act 2010, the proposed development is in accordance with the LP, which is based on a Fair Treatment Assessment of its policies on specific groups, as a result of age, race, disability or religion. For the reasons given earlier, I find no adverse impacts on the interests of those protected by the Act would result. [4.27]
- 6.72 Without control over the Order Lands, the benefits required by LP Policy P2 to the environment, the economy and the local community would be unlikely to be achieved. The public interest would therefore be clearly served through implementation of the Scheme in the manner intended, and a compelling case for the Order has been demonstrated. [4.28]

**The SUO**

- 6.73 The closure of Manor Square and part of Manor Walk, in accordance with the draft SUO<sup>87</sup>, is necessary to enable the full implementation of the approved planning permission and listed building consents. Given that, following full consideration of its likely advantages and disadvantages, planning permission and listed building consents were granted for this development by the Council

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86 Article 1, First Protocol to the European Convention on Human Rights

87 Revised SUO IQ20

as Local Planning Authority, I consider that continued objection to the principle of the development is not good reason to not make the SUO. Given that the Council has found the Scheme to be in the public interest, I consider that enabling of full implementation of the development is, in itself, a significant benefit, which would be conferred by the SUO. It would bring about the substantial economic, environmental and social benefits outlined earlier within my report, including an enhanced public realm and legible street layout and public spaces. [3.1-3.5, 6.9-6.16]

- 6.74 Against this, I need to weigh up the disadvantages of the proposed closures. The loss of rear parking areas to nearby properties on High Street would be a consequence of the implementation of the planning permission and listed building consents rather than a consequence of the SUO alone and in any event alternative convenient provision would be provided. Rear access would also be lost to the same properties, but again alternative convenient provision would be made through the Scheme. However, relocation of a drop-off facility and disabled spaces currently in Manor Square, although re-provided adequately in convenient locations elsewhere in the TC, would be likely to be some disadvantage to some people currently accustomed to using those facilities. I therefore identify some limited harm. The comments of the fire, police and emergency services influenced the Scheme design. I find that no harm would result in this regard. Alterations to the alignment of Manor Walk would be a consequence of the planning permission and listed building consents rather than the SUO. [5.9, 5.10, 5.74, 5.79, 5.87, 5.94, 5.100, 5.109, 5.110, 5.116]
- 6.75 Whilst I have identified some limited disbenefits of the draft SUO, those would be clearly outweighed by the substantial benefits identified. All in all, as there would be substantial public benefit from implementation of the planning permission and listed building consents, the SUO should be made. [5.73]

### **Recommendation**

- 6.76 For the above reasons, I recommend that the CPO be confirmed and the SUO, subject to the modification set out in paragraph 4.30 of this report be made.

*R Barrett*

INSPECTOR

## **ANNEX A - APPEARANCES**

### **Metropolitan Borough of Solihull Council (SMBC)**

Represented by Timothy Corner QC      Instructed by Freeths LLP on behalf of SMBC and Evershed LLP on behalf of LLRP

He called:

Christopher Goddard	Director DP9
Simon Brambles	Project Architect 3DReid
Jonathan Phipps	Director Lathams
Michael Prentice	Executive Director of Retail Development CBRE
Fiona Beaverson	Director Manager- LLRP
Michael Swallow	Head of Strategic Land and Property SMB
Richard Jones	WSP Parsons Brinkerhoff
James Franklin	Associate Director CBRE

### **The Objectors to the Orders Statutory Objectors**

#### **Stonegate Pub Company Limited**

Represented by Ned Westaway      Instructed by Charles Russell Speechlys  
He called:

Paul Semple	Divisional Planning Director Bidwells LLP
John Davies BSc MRICS	Director BNP Paribas Real Estate
Richard Whitfield	Estate Manager Stonegate Pub Company Limited

#### **Cityforce Investments**

Represented by Richard Thorne      Pennycuik Collins Chartered Surveyors

#### **BB Boutique Limited trading as Jurnie**

Jessie Hancox      Co-Owner

## Non-Statutory Objectors

Trevor England	Solihull Local History Circle (SLHC)
Elizabeth Sands	Local Resident
Richard Stubbs	Local Resident
David Patterson	Local Resident
David Ramsay	Local Resident
Eric Morton	Local Resident
Peter Thompson	Local Resident
Sydney Ashby	Local Resident (represented by David Patterson)
Patricia Ritchie	Local Resident
Angela Cameron	SLHC

## ANNEX B - INQUIRY DOCUMENTS

Inquiry Doc No.	Details
IQ1	Statement of Mrs Elizabeth Sands
IQ2	Bundle relating to Compliance with Statutory Formalities
IQ3	Outline of Objection on behalf of Stonegate Pub Co Ltd
IQ4	Summary of contact made to date- Stonegate Pubs- Touchwood CPO- Solihull
IQ5	Comments made on behalf of BB Boutique Ltd on the evidence served by the AA
IQ6	Intentionally blank
IQ7	Property negotiations update
IQ8	Opening submissions on behalf of Watford Borough Council and addendum to CD
IQ9	Statement of Trevor England
IQ10	Statement of David Patterson
IQ11	Statement of Sydney Ashby
IQ12	Opening Submissions for SMBC
IQ13	Statement of Patricia Richie
IQ14	Copy of CPO Indemnity Agreement relating to Touchwood Shopping Centre extension (TW Phase 2)
IQ15	Statement of Peter Thompson
IQ16	Statement of Common Ground (SoCG) between BB Boutique Ltd and SMBC (signed and dated)
IQ17	SoCG between Stonegate Pub Co Ltd and SMBC (signed and dated)
IQ18	Extract from Management Today dated 16/3/15 and 9/10/14
IQ19	Plan SK-002 Touchwood Inquiry Walking Distances – existing/ proposed drop-offs to library
IQ20	Summary of SUO proof of Mr Jones
IQ21	Letter dated 16 May 2016 from Stanley & Co Solicitors withdrawing the objection of Solihull School Limited to the SUO
IQ22	E mail from David Ramsay titled Touchwood Development- Solihull Manor House- Objections 16 February 2016
IQ23	Extract from SMBC Planning Committee Agenda Wednesday 4 November 1998
IQ24	Leaflet of Solihull Manor House Charity



IQ25	Statement of Mrs Angela Cameron, Director Solihull Local History Circle
IQ26	Statement of Trevor England on behalf of Solihull History Circle
IQ27	E mail dated 19 May 2016 from Richard Thorne regarding the accompanied site visit
IQ28	Discharge of condition decision notice dated 19 May 2016 regarding condition 32 on approved planning permission PL/2015/51464/MAJFOT (regarding the wall to the Solihull Manor House)
IQ29	Discharge of condition decision notice dated 19 May 2016 regarding condition 33 (revised details of east elevation of unit 100- Belvedere- on approved planning permission PL/2015/51464/MAJFOT
IQ30	Plan TWE-3DR-XX-08-DR-00-0100-A : Proposed ground floor plan with existing 136-140 High Street Overlaid
IQ31	Copy of development Agreement relating to The Touchwood Shopping Centre Extension (Touchwood Phase 2) between MBS and Lend Lease retail Partnership acting by Lend Lease Estate Investments Limited
IQ32	Statement of Richard Whitfield plus appendices
IQ33	Touchwood, the Manor House, the Greswolds and their greyhound submitted by David Ramsay
IQ34	Closing note on behalf of Stonegate Pub Company Limited
IQ35	Closing Statement of Elizabeth Sands
IQ36	Closing Submission of Solihull Local History Circle
IQ37	Closing Statement from David Patterson
IQ38	Closing Statement from E.J.Morton
IQ39	Closing Statement by Peter Thompson
IQ40	Summary of the Statement given by P. Richie Bsc (Hons)
IQ41	Closing Submissions for the Council as Acquiring Authority and Lend Lease Retail Partnership as Applicant for the SUO