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Date: 17 September 2018

Dear Sir/Madam

**The Town and Country Planning Act 1990: Section 226(1)(a)
Acquisition of Land Act 1981
The Cheshire West and Chester Borough Council (Chester Northgate)
Compulsory Purchase Order 2017**

**An application to close and relocate Chester Market Hall submitted under
section 185 of the Chester Improvement Act 1845 and section 75 of the
Chester Corporation Act 1929**

- 1 The report of the Inspector, Neil Pope BA (Hons) MRTPI, who held a public local inquiry into the above Order and application together with other related cases on 7, 8 and 12 February 2018 has been considered. A copy of the Inspector's report is enclosed. References in this letter to paragraphs in the Inspector's report are indicated by the abbreviation IR, followed by the relevant paragraph number.

***The Cheshire West and Chester Borough Council (Chester Northgate)
Compulsory Purchase Order 2017***

- 2 The Compulsory Purchase Order (CPO), if confirmed, would authorise the compulsory purchase of approximately 5.8 hectares of land. The CPO land occupies the central northern part of the city centre and is generally defined by Hunter Street to the north, Market Square to the east, the rear of buildings along the northern side of Watergate Street to the south and St Martin's Way to the east.

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Inspector's recommendation and Secretary of State's CPO decision

12. The Inspector has recommended (IR97) the Cheshire West and Chester Borough Council (Chester Northgate) Compulsory Purchase Order 2017 be confirmed without modification. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation and concludes that the Order should be confirmed.

Considerations

- 3 The CPO summary at IR page 3 stated the inquiry commenced with twelve remaining qualifying objections plus a number from market traders, it goes on to say that objections from three qualifying persons were withdrawn prior to the inquiry closing. The report does not specify the number of market traders objecting to the CPO. However, following the close of the inquiry, the post inquiry position for all objectors was confirmed with the Acquiring Authority (AA). Records indicate that for the CPO there were three further qualifying objections withdrawn once the inquiry closed and 16 market trader objections remain (13 qualifying). There are also five other qualifying objections plus a late objection and other non-qualifying objections remaining.
4. The main grounds of objection are: inadequate justification for acquiring the properties; the scheme of redevelopment could not be delivered in a reasonable timescale; no meaningful attempt to acquire properties by agreement; inadequate compensation; development blight; Council unwilling to allow standalone developments to proceed; buildings not required; traders would be contracted out of the Landlord & Tenant Act 1954; concerns over freedom to trade; loss of leaseholds; no compelling case in the public interest; adverse effect on existing businesses; scheme not viable.
5. The grounds of objection are set out in more detail at IR43-57, with the response by the AA summarised at IR58-71. The Inspector's overall conclusion is at IR96 with conclusions on each of the main matters at IR74-95.

Planning Framework

6. The planning framework for the area consists of the adopted Cheshire West & Chester development plan. This comprises the Cheshire West & Chester Local Plan (Part One) Strategic Policies 2015, Cheshire West & Chester Local Plan Proposals Map and saved policies of the Chester District Local Plan (2008). The emerging Cheshire West & Chester Local Plan (Part Two) Land Allocations and Detailed Policies Draft Publication Plan (2017) is at a relatively early stage, although it has been submitted for examination with sessions scheduled to commence later this month. The Council also has adopted a range of Supplementary Planning Guidance and Supplementary Planning Documents.
7. The Inspector reported his view of the planning framework on a number of issues. At IR76 he states the approved scheme of redevelopment reflects Cheshire West and Chester Council's priorities for the city centre and accords with the provisions of the development plan. At IR78 he states that the provision of an element of affordable housing, is in line with the provisions of

the development plan. Overall, the Secretary of State is satisfied that the proposal accords with the development plan and agrees with the Inspector's assessment on these points and that the regeneration proposed is consistent with the aims of the revised National Planning Policy Framework (July 2018) .

Economic, Social or Environmental well-being

8. The Secretary of State has considered the Inspector's conclusions in relation to the extent the proposed purpose of the Order will contribute to the achievement of the economic, social or environmental well-being of the area at IR75-79. IR75 states that action is urgently required to reverse the fortunes of this part of the city, secure growth in the local economy and to better reveal the significance of some of Chester's heritage assets. IR76 says the scheme for which the Order land is being acquired would enhance/promote the environmental well-being of the Northgate area of Chester. IR77 says the scheme for which the Order land is being acquired would enhance/promote the economic well-being of the area. Finally through the provision of an element of affordable housing, the creation of a new cultural hub and the provision of public toilets, shop-mobility, ramp access and disabled parking would also benefit the social well-being of the local community (IR78).
9. The Secretary of State agrees with the conclusion of the Inspector at IR79 and considers that the acquisition would facilitate redevelopment and would assist in improving the economic, social or environmental well-being of the area.

Viability

10. The Secretary of State agrees with the Inspector's conclusion (IR84) that there is good reason to believe that the resources required for the delivery of the proposed scheme are available.

Alternatives

11. The regeneration proposed is an alternative to a previous scheme. IR22 states a scheme was granted planning permission in 2005 (CD24). Following a public Inquiry in 2005, the necessary CPO, Stopping Up Order and market hall applications were confirmed/made/approved by the Secretary of State. However, this planning permission was not implemented following the economic downturn in 2008.

Efforts to Negotiate

12. IR86-87 summarise the efforts made by the AA to reach agreements with the freeholders and leaseholders concerned and the Inspector's view of this. Having considered all the evidence submitted in support of the Order and available to the public inquiry, the Secretary of State is satisfied with the efforts to negotiate with all parties involved, including with the affected market traders.

Justification in the public interest and overall balance

13. The Secretary of State has given careful consideration to the Inspector's report and the submissions of the parties. He accepts the Inspector's findings and agrees with his conclusions. He accepts that a compelling case in the public interest for confirming the Order has been made. The Secretary of State has therefore decided to accept the Inspector's recommendation and to confirm the Cheshire West and Chester Borough Council (Chester Northgate) Compulsory Purchase Order 2017.
14. I enclose the confirmed Order and the map to which it refers. Your attention is drawn to section 15 of the Acquisition of Land Act 1981 about publication and service of notices now that the Order has been confirmed. Please inform us of the date on which notice of confirmation of the Order is first published in the press.

Application to close and relocate Chester Market Hall

Consideration

15. For the current application, all 34 market traders who originally objected to the CPO, whether qualifying or non-qualifying, also objected to the closure and relocation of the market hall. 18 market traders subsequently withdrew their objections. One other non-qualifying objector to the CPO also objected to the market hall closure and relocation.
16. The Inspector considers the proposal is integral to the scheme of redevelopment and would be an improvement upon the existing market hall (IR91). He goes on to state at IR92 that if Chester Market Hall was to close without suitable alternative provision being made available it would harm some local businesses/traders, reduce the city centre retail offer and erode part of the historic character of Chester. The Council's suggested condition would be necessary to avoid this and would not be unreasonable.
17. While overall the Secretary of State agrees with the Inspector at IR93, that the closure and relocation of Chester Market Hall accords with the relevant provisions of the Acts and would provide a suitable new market hall he disagrees with the recommendation at IR97 to approve the closure and relocation subject to the inclusion of condition as there is no provision to do so in the Chester Corporation Act 1929. However, the Secretary of State notes that the Council has a further power under s186 of the Chester Improvement Act 1845, to close a market in a situation where a new market is being provided, which does not require the approval of the Secretary of State. This provision ensures the continuity of market provision and is consistent with the Inspector's recommendation in his view.

Matters post close of inquiry

18. The Secretary of State wrote to Cheshire West and Chester Council on 7 June 2018 to explain his view of the proposed condition. Cheshire West and Chester Council confirmed its intention regarding maintaining market provision

in its letter of 2 July 2018 to the Secretary of State. On 13 July 2018, the Secretary of State wrote to all the parties to invite comments on the Council's position. The Secretary of State has had regard to all the views expressed in response to this report and all the correspondence received has also been taken into account. He considers, in the light of the facts of this case, that the matters raised do not alter his conclusion and decision.

Secretary of State's decision

19. The Secretary of State therefore refuses the application to close and relocate Chester Market Hall under s75 of the Chester Corporation Act 1929 following receipt of assurance from Cheshire West and Chester Council of its intention regarding the continual provision of a market at this location in its letter of 2 July 2018.

Human Rights - CPO and Market Hall application

20. See Annex A.

Public Sector Equality Duty (PSED) - CPO and Market Hall application

21. See Annex B.

Secretary of State decision and other matters

22. The Secretary of State has decided to confirm the Cheshire West and Chester Borough Council (Chester Northgate) Compulsory Purchase Order 2017.
23. The Secretary of State has refused the application to close and relocate Chester Market Hall under s75 of the Chester Corporation Act 1929.
24. A draft order would be made under section 247 of the Town and Country Planning Act 1990 (as amended), and is known as The Stopping Up Of Highway (North West)(No.) Order 201 was also considered at the inquiry. The Order was published on 20 July 2017, and all five objections had been withdrawn at the commencement of the Inquiry. The Secretary of State for Transport will separately issue his decision for this Order.
25. An application for a certificate under Section 19 of the 1981 Act for the inclusion of 4m² of open space land is the subject of a separate application and will receive a separate decision from the Secretary of State for Housing, Communities and Local Government.
26. Copies of this letter and the Inspector's report are being sent to remaining objectors.

Yours sincerely

M A Hale Senior Planning Manager

Signed by authority of the Secretary of State for Housing, Communities and Local Government