

**THE ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD  
(NICHOLSONS SHOPPING CENTRE AND SURROUNDING AREA AT  
HIGH STREET, QUEEN STREET AND KING STREET, MAIDENHEAD)  
COMPULSORY PURCHASE ORDER 2022**

**TOWN AND COUNTRY PLANNING ACT 1990  
AND  
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976  
AND  
THE ACQUISITION OF LAND ACT 1981**

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**STATEMENT OF REASONS  
FOR MAKING THE ORDER**

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**Contents**

<b>SECTION</b>	<b>PAGE</b>
1 INTRODUCTION .....	3
2 ENABLING POWER .....	5
3 DESCRIPTION AND LOCATION OF THE ORDER LAND .....	5
4 THE NEED FOR REGENERATION .....	8
5 THE PROPOSALS FOR THE DEVELOPMENT .....	9
6 THE PURPOSE FOR MAKING THE ORDER.....	12
7 THE PLANNING FRAMEWORK IN RESPECT OF THE ORDER LAND .....	12
8 JUSTIFICATION FOR THE USE OF COMPULSORY PURCHASE POWERS .....	22
9 NEGOTIATIONS WITH THOSE OWNING INTERESTS IN THE ORDER LAND .....	30
10 OTHER MATTERS .....	31
11 CONCLUSION .....	34
12 CONCLUSION .....	36
13 ADDITIONAL INFORMATION.....	36
14 LIST OF DOCUMENTS IN THE EVENT OF AN INQUIRY .....	36

# 1 INTRODUCTION

- 1.1 On the 22<sup>nd</sup> February 2022 the Royal Borough of Windsor and Maidenhead (“**the Council**” or “**the Acquiring Authority**”) made the Royal Borough of Windsor and Maidenhead (Nicholsons Shopping Centre and surrounding area at High Street, Queen Street and King Street, Maidenhead) Compulsory Purchase Order 2022 (“**the Order**”) pursuant to Section 226(1) (a) of the Town and Country Planning Act 1990 (“**TCPA 1990**”), the Acquisition of Land Act 1981 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976. On the 26<sup>th</sup> February 2020 the Council resolved to use the Council’s compulsory purchase powers to bring forward the redevelopment of the Nicholsons Shopping Centre. Subsequent to this, the Council’s Cabinet resolved to make the Order on 25<sup>th</sup> March 2021
- 1.2 The Order has been submitted to the Secretary of State for Levelling Up, Housing and Communities for confirmation.
- 1.3 This document is the Statement of Reasons for the Order, the purpose of which is to set out the reasons for making the Order. This Statement of Reasons has been prepared in compliance with both paragraphs 21 and 154 of the Levelling Up, Housing and Communities’ Guidance on Compulsory Purchase Process and The Crichel Down Rules (July 2019) (“**the CPO Guidance**”).
- 1.4 This statement is not a statement under Rule 7 of the Compulsory Purchase by Non-ministerial Acquiring Authorities (Inquiries Procedure) Rules 2007 and the Acquiring Authority reserves the right to alter or expand it as necessary for the purposes of Rule 7.
- 1.5 In this document the land included within the Order is referred to as “**the Order Land**”.
- 1.6 The purpose in making the Order is to facilitate the delivery of the redevelopment of the Nicholsons Shopping Centre. The existing Nicholsons Shopping Centre is an enclosed shopping centre located in a central position within Maidenhead Town Centre. Developed in parts since the 1960s, the shopping centre provides 55 retail units (17,000 sq. m. NIA / 18,800 sq. m. GIA) with associated service yard and multi-storey car park. Whilst still reasonably well-occupied, the shopping centre has a number of issues which make it no longer fit for purpose.
- 1.7 The Council is seeking to assemble the Order Land to facilitate the mixed-use development comprising a mixture of employment, residential, retail, leisure, community and elderly care homes in the heart of Maidenhead town centre, together with improvements to the public realm and open space (**‘the Scheme’**). The Scheme aims to create an exemplar mixed-use development which will contribute to a vibrant and sustainable town centre and distinguish Maidenhead from the surrounding towns helping to ensure that it is the destination of choice for the local population.
- 1.8 The Scheme provides an opportunity to address the deficiencies of the existing shopping centre, deliver forms of development and accommodation which meet prevailing occupier and local residents’

needs, introduce a greater range of uses into the town centre to improve vitality, and re-establish the connections with the surrounding streets which was lost when the shopping centre was developed in the 1960s.

1.9 To achieve these objectives a significant level of land assembly needs to be completed. The Order is required to secure those interests in the Order Land not already held by the Council or Denhead S.A.R.L. (**‘the Developer’**), as well as new rights which are required to enable construction. The securing of third party interests and new rights over the Order Land (and the effect of the acquisition on adverse rights affecting it) will ensure that the Scheme can be delivered together with the benefits that this will bring.

1.10 This Statement of Reasons explains the reasons for making the Order. The considerations that are to be taken into account by the Secretary of State in deciding whether or not to confirm a compulsory purchase order are addressed using the following structure:

- (i) Power under which the Order has been made
- (ii) The Order Land & interests to be acquired
- (iii) The need for regeneration
- (iv) The Proposals for Redevelopment
- (v) The purpose for making the Order
- (vi) The Planning Framework in respect of the Order Land
- (vii) Relevant Corporate Policies
- (viii) Justification for the use of Compulsory Purchase powers
  - (a) Consistency with the planning framework for the area
  - (b) Well-being benefits
  - (c) Financial viability/funding
  - (d) Alternatives
  - (e) No impediments to delivery
  - (f) Reasonable steps to acquire land by agreement
  - (g) Compelling case in the public interest
- (ix) Legal and Other regards
  - (a) Human rights
  - (b) Consultation
  - (c) Related Orders
  - (d) Conservation Areas and Listed Buildings

(e) Public sector equality duty

(x) Conclusions

## **2 ENABLING POWER**

2.1 The Council is exercising its powers pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 to acquire land compulsorily for "development and other planning purposes" on the basis that the acquisition of land will facilitate the carrying out of development, re-development or improvement on or in relation to that land. The Council in exercising its power under section 226(1) has had regard to Section 226(1A) which provides that this power must not be exercised unless the Council think that the development, re-development or improvements are likely to contribute to the promotion of the economic, social or environmental well-being of its area.

2.2 The Council considers that the use of section 226(1)(a) is appropriate having regard to the aims sought to be achieved by the redevelopment of the Order Land. The Council is satisfied that the use of the powers contained in section 226(1)(a) will contribute to the development, redevelopment or improvement of the Order Land. The Council is further satisfied that the redevelopment of the Order Land will contribute to improve the economic and social well-being of Maidenhead Town Centre through an enhanced residential, office, retail and leisure offering, and additional employment opportunities. The redevelopment of the Order Land will also contribute to the environmental and social wellbeing of the area as a consequence of the public realm improvements facilitated by the redevelopment of the Order Land. Full details of the benefits of the redevelopment of the Order Land for the Council's area are at Section 9 below.

2.3 Under section 13 of the Local Government (Miscellaneous Provisions) Act 1976 the Council has the power to compulsorily acquire new rights over land. The rights which are sought are specified in the Schedule to the Order and summarised in Section 3 below.

## **3 DESCRIPTION AND LOCATION OF THE ORDER LAND**

### **3.1 Extent and Nature of Rights**

3.1.1 The Order Map shows the freehold and leasehold interests to be acquired compulsorily as well as the extent of new rights to be secured. The Order Map has been carefully delineated to ensure the land and interests to be acquired are only what is required to facilitate the delivery of the Scheme.

### **3.2 Interests To Be Acquired**

3.2.1 The interests to be acquired within the Order Land can be categorised as follows:

- (i). **Leasehold interests of retail units within the existing Nicholsons Shopping Centre** – the majority of the Order Land is the existing Nicholsons Shopping Centre. Whilst the Developer, who is also the current owner of the shopping centre, has been managing the shopping centre to allow

it to secure vacant possession of the majority of units in conjunction with its development programme, there are a number of units which are let on leases which have a number of years left to run and therefore would inhibit delivery of the Scheme. Reflecting that the majority of units within the shopping centre are let, so to ensure that the Scheme can proceed, the entirety of the shopping centre has been included in the Order. As noted at 5.4 below, the Development would retain the existing Nicholson Tower office building and so this is not included within the Order Land, save for the acquisition of new rights so to allow works to take place to external parts of the building as part of the demolition of the existing shopping centre.

- (ii). **Leasehold interests in the existing Nicholsons Multi-Storey Car Park and adjoining retail units (39 – 51 King Street)** – the Council is the freeholder of the existing multi-storey car park and the adjoining retail units. The retail units are predominantly vacant, with Shopmobility occupying a unit on the ground floor of the car park. There is also a leasehold interest relating to the first and third floor of the car park extension which sits above the service deck. The existing multi-storey car park and service deck is to be demolished and therefore the Order covers this area to ensure all necessary interests in land can be acquired.
- (iii). **Siena Court, Broadway** – Siena Court, a four-storey office block located to the south of the Nicholsons Shopping Centre, is owned by the Council and presently vacant. Siena Court is to be demolished to allow for the construction of the new multi-storey car park
- (iv). **Unregistered freehold interest at King Street** – part of King Street (plot 9 on the Order Map) is unregistered. Acquisition of all interests in this area is required, to ensure this land can be stopped up as part of the development.

### 3.3 **New Rights**

- 3.3.1 As well as securing the land necessary to deliver the Scheme, new rights are also necessary to allow the Scheme to be constructed. These new rights are being created under Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 and the affected parts of the Order Land are shown coloured blue on the Order Map.
- 3.3.2 The new rights are described in greater detail in the Schedule of Rights accompanying the Order. In summary, these relate to crane oversailing, access for construction works, the ability to erect scaffolding on land, the right to reposition plant, and new access rights over land so to maintain access to neighbouring properties during the construction process.
- 3.3.3 More specifically, new rights are sought over Nicholson Tower so to allow works to be undertaken to the frontage of the property. At present, the entrance to Nicholson Tower is situated within the shopping centre and as part of the demolition programme there will be a need to detach those parts of the existing shopping centre which presently connect with Nicholson Tower, as well as thereafter make good and improve the frontage.

3.3.4 New rights are also sought over Brock Lane / Bankside which is situated to the east of the existing shopping centre. This land forms a narrow public highway (Brock Lane) and an access path (Bankside) which extends along the rear of the shopping centre and 10-12 Queen Street. Part of Brock Lane (plots 132, 135 and 136) are in third party ownership, as well as the extent of Bankside (plots 131, 133 and 134). The Order includes new rights over these parcels of land so public realm improvements works can be undertaken with the responsibility of future management and maintenance resting with the Developer following stopping up of the highway. The Development would maintain access to neighbouring properties over this land through the planning permission

### 3.4 **Extinguishment of and interference with rights**

3.4.1 The Order would also result in

- Extinguishment of all private rights of way in the Order Land (under Section 236 TCPA 1990). The affected interests are likely to be those properties within the shopping centre and on the High Street which have rights to use the service deck for deliveries and parking of vehicles. Replacement rights will be provided in respect of the new service yard and car park; and
- A change to the remedy available in relation to interference with easement-type rights (such as rights to light), because the Order would engage Section 203 of the Housing and Planning Act 2016 such that the only remedy for the interference with affected rights would be damages assessed under Section 10 of the Compulsory Purchase Act 1965. Section 12 (2A) of the Acquisition of Land Act 1981 identifies a “qualifying person” in relation to land comprised in an order as being “a person the acquiring authority thinks is likely to be entitled to make a relevant claim if the order is confirmed and the compulsory purchase takes place”. Section 12 (2B) goes on to state that a “relevant claim” is a claim for compensation under Section 10 of the Compulsory Purchase Act 1965. The potentially affected interests are likely to those noted accordingly in Table 2 of draft Order Schedule. These properties lie outside of the boundary of the Order Land and are not subject to any form of acquisition, nor is any new right being sought in respect of these properties. Given it is the entirety of the development required to deliver the Scheme, as built, which may give rise to a claim for compensation, column (4) of Table 2, has been referenced to refer to “All Plots”.

The inclusion of these properties is not an acknowledgement or acceptance that compensation is payable. Rather, these properties are being included in the Schedule given the requirements of S12 (2A) of the Order Land Acquisition Act 1981.

3.5 The individual plot boundaries and numbers shown on the Order Plan correspond with the Schedule to the Order. This schedule has been prepared based upon information gathering through the Land Registry title documents, site inspections, enquiries and the responses to the notices issued under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

## 4 THE NEED FOR REGENERATION

- 4.1 The existing Nicholsons Shopping Centre is an enclosed shopping centre located in a central position within Maidenhead Town Centre. Occupying 3.01 hectares (ha) the shopping centre is framed by the High Street to the north, Queen Street to the east, Broadway to the south and King Street to the west. Maidenhead Railway Station is located to the south-west of the shopping centre and is within a five minute walk.
- 4.2 The surrounding area is dominated by retail and employment uses. The High Street, Queen Street and, to a lesser extent, King Street each focus on ground floor retail uses. Immediately to the south of the site, is 'the Landing' site which has planning consent (ref: 18/01576/FULL) for a gateway development with a mix of retail, community, leisure and commercial uses at ground level and 454 residential units in a development comprising 6 buildings ranging from 6 to 16 storeys in height.<sup>1</sup>
- 4.3 The existing shopping centre, which has been developed in parts since the 1960s, provides 55 retail units (17,000 sq. m. NIA / 18,800 sq. m. GIA) with associated service yard and multi-storey car park. Whilst still reasonably well-occupied, demand for retail space within the shopping centre over the last ten years has diminished significantly and this trend has continued, notwithstanding that the shopping centre forms part of the primary retail offer in an affluent town centre. Unrelated to the redevelopment proposals, and not solely prompted by the impact on the retail sector caused by the Covid-19 pandemic, as has been the case in shopping centres across the UK, retailers have been voluntarily vacating the shopping centre due to poor trading performance, as a result of changing consumer shopping patterns, notably due to the growth of online sales. Understandably, the impact is circular: if the retail offer is diminished then shoppers choose to visit other towns, which further reduces trading levels, resulting in a further reduction in retail offer as retailers exit for other viable town centres.
- 4.4 The shopping centre has a number of issues which makes it no longer fit for purpose. These include:
- (i) a poor quality enclosed environment;
  - (ii) units that are generally too large;
  - (iii) a standard retail format of deep plans and regular shaped units resulting in lack of suitability for a significant proportion of occupiers;
  - (iv) no sense of place, or spaces to meet and relax;
  - (v) the enclosed shopping centre resulting in high maintenance costs, and in turn, service charges for occupiers;

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<sup>1</sup> 13,007 sq. m. office, and 3,846 sq. m. of other mixed uses including retail, community and leisure



- (vi) a lack of pedestrian connectivity to Broadway and King Street;
- (vii) a multi-storey car park which creates a poor sense of arrival on King Street and a vehicular entrance that forms a barrier to pedestrian movement.

4.5 Despite its central location within the town centre, lying between the railway station and the high street, the shopping centre by virtue of being closed out of retailing hours constrains pedestrian connectivity across the town centre, particularly in a north-south direction.

4.6 The role of town centres is evolving evermore quickly. Town Centres across the UK have been in decline for a number of years, with retailers and restaurants ceasing trading on a daily basis. To survive, and indeed thrive, town centres have to respond to the changing lifestyle, shopping needs and desires of the population. This means creating places and spaces where people want to spend time, surrounded by a curated offer that provides a range of independent shops, opportunities for artisans, as well as also providing a place for larger format stores. Town centres need to be flexible and affordable to allow businesses to establish, be sustained and grow.

4.7 There is also a recognised need to drive a mix of uses within town centres, particularly in respect of residential accommodation and more flexible business space. Maidenhead is a well-established office location for large corporate occupiers, sitting at the western end of the M4 Corridor and benefitting from its proximity to Heathrow Airport. The redevelopment of the shopping centre allows for the office accommodation within the town centre to be further enhanced, positioning new, high quality office space within the heart of the town centre.

4.8 In respect of residential, like most town centres historically the residential offer has been limited but this has begun to change over recent years with more residential development being brought forward, promoting town centre living, across a range of typologies, including market sales, build to rent and senior living, which in turn promotes healthier more sustainable town centres and the creation of strong communities.

4.9 The proposed redevelopment of the Nicholsons Shopping Centre provides an opportunity to address the deficiencies of the existing shopping centre, deliver forms of development and accommodation which meet prevailing occupier and local residents' needs and re-establish the connections with the surrounding streets which was lost when the shopping centre was developed in the 1960s.

## **5 THE PROPOSALS FOR THE DEVELOPMENT**

5.1 The Scheme is being advanced under a hybrid planning application (ref: 20/01251/OUT) for a comprehensive mixed-use redevelopment for the following, known as the Nicholson Quarter Development (**NQD**) :

1. **Outline planning permission (with all matters reserved)** for four buildings that range in height, with the highest being 88.7m AOD and the lowest being 66.2m AOD, on the site for a comprehensive mixed-use redevelopment comprising:
  - Business Use (Class B1) - up to 29,700 m2 (GEA);
  - Residential Institution (Class C2) - up to 29,400 m2 (GEA);
  - Flexible Retail, financial and professional services, restaurants and cafes, drinking establishments, hot food takeaways, non-residential institutions and assembly and leisure (Class A1 / A2 / A3 / A4 / A5 / D1 / D2) - up to 4,400 m2 (GEA);
  - Parking, refuse, bike storage and plant space - up to 13,600 m2 (GEA);
  - Formation of new pedestrian and vehicular access;
  - Means of access and circulation and car parking within the site; and
  - Provision of new public space and landscaping.
  
2. **Full planning permission** for the demolition of the majority of buildings on site, construction of two residential buildings comprising 25 storeys, and part 10/part 15 storeys and a landscaped podium (Class C3), construction of a 4 storey office building (Class B1), flexible retail, financial and professional services, restaurant and cafes, drinking establishments, and hot food takeaways uses (Class A1 / A2 / A3 / A4 / A5) and the provision of a new public realm, and the erection of a multi-storey car park.”

**(the Development).**

5.2 The Development can be summarised as follows (all floor areas quoted are Gross Internal Area):

	Detailed	Outline	Total
Development Zones	2, 4 & 5	1, 3 & 6	
Retail (A1-A5, D1, D2)	3,542 sq. m.	4,100 sq. m.	7,642 sq. m.
Office (B1)	1,288 sq. m.	27,900 sq. m.	29,188 sq. m.
Flexible Use	719 sq. m.	-	719 sq. m.
Residential Units (C3)	346 units	-	346
Senior Living Units (C2)	-	Up to 307	Up to 307
Car Parking	Multi-Storey delivering 885 car parking spaces	434	1,319

Cycles Spaces	803		803
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5.3 The Development will provide a mix of residential units sizes as summarised in the table below:

	No. of Units	%
Studios	53	15.32%
One Bedroom (2P)	86	25.86%
Two Bedroom (3P)	68	19.65%
Two Bedroom (4P)	106	30.64%
Three Bedroom (5P)	22	6.36%
Three Bedroom (6P)	11	3.18%

5.4 Nicholson Tower, an office building located at the eastern end of Nicholson Lane and accessed via the shopping mall is, retained within the Development. Access will be maintained throughout the construction process.

5.5 Central to the masterplanning of the NQD is permeability and connectivity. The Development, which will deliver a mix of workspace, homes, shops and public space, is designed around a sequence of open streets and spaces that connect and knit into the town. The NQD will repair the connections lost when the shopping centre was developed in the 1960s, enabling north-south and east-west movement in a legible manner.

5.6 A key objective of the Development is the creation of a scheme which supports both the daytime and evening economies. Flexibility in uses and tenant mix is promoted: the aim is to replace outdated and inefficient retail and office buildings on the site and provide new, flexible, modern floorspace to meet the demands of Maidenhead and wider Berkshire. In order to create a vibrant and sustainable town centre community the NQD has been specifically designed to incorporate a varied mix of uses including offices, retail and restaurant and a mix of both private sales and senior living residential.

5.7 The change in offer which would be achieved by the Development also extends to delivering an efficient servicing solution which integrates with the public realm rather than dominating it. The existing Nicholsons Shopping Centre is dominated by large scale servicing accommodating larger vehicles. The concept for the Development is of streets and spaces where delivery is to be from the front of the units. No dedicated delivery or service access is proposed to the rear of the units.

5.8 Delivery bays will be provided in locations to the periphery of the quarter on The Broadway and Nicholsons Lane, with trolleys utilised to deliver to the units from these locations. Additional bollard

controlled servicing access will be provided from King Street along Moffatt Street through Brock Lane to Queen Street. This will enable drop off delivery to the front of the units for smaller vehicles. It is proposed that no vehicles are permitted to utilise this route from 10:00-06:00.

- 5.9 On the 3<sup>rd</sup> March 2021 the Council's Development Management Panel ('DMP') unanimously resolved to grant permission for the NQD. The planning officer's report to the DMP recommended the application for approval highlighting the significant benefits the proposal would deliver to Maidenhead Town Centre and the borough.

## **6 THE PURPOSE FOR MAKING THE ORDER**

- 6.1 The Council is seeking to assemble the Order Land to facilitate the redevelopment of the Nicholsons Shopping Centre to deliver a mixed-use development comprising a mixture of employment, residential, retail, leisure, community and senior living units in the heart of Maidenhead town centre, together with improvements to the public realm and open space ('the Scheme').
- 6.2 The purpose of the Order is therefore to acquire all interests in land not in the Council's or the Developer's ownership, where agreement cannot be reached, in order to achieve delivery of the Scheme. The Order will also create new rights (as detailed in paragraph 3.3) and facilitate interference with adverse rights where necessary (as detailed in paragraph 3.4).
- 6.3 As outlined in the CPO Guidance acquiring authorities should seek to acquire the interests of property and land owners by agreement, relying on compulsory purchase as last resort. Negotiations have been pursued with those affected by the Order with a good level of success: agreement has been reached with a number of the shopping centre tenants which have allowed them to continue in occupation until the redevelopment commences. However, some parties have elected not to engage in negotiations or it has not been possible for an agreement to be reached. All reasonable efforts will be made by the Council and Developer going forward to acquire property through negotiation and agreement. Nevertheless, it is clear that an Order is required to ensure that there is sufficient certainty that regeneration can come forward as envisioned by the Council, the Developer community and key stakeholders.
- 6.4 By making the Order, the Scheme can be delivered as intended and will contribute to achieving a number of key Council priorities and objectives as will be outlined in following sections.

## **7 THE PLANNING FRAMEWORK IN RESPECT OF THE ORDER LAND**

- 7.1 For the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2014, the statutory Development Plan covering the Order Land comprises:
- (i) Royal Borough of Windsor and Maidenhead Local Plan 2013 – 2033 (February 2022)
  - (ii) Maidenhead Town Centre Area Action Plan (September 2011)

7.2 Relevant material considerations include:

- (i) National Planning Policy Framework (June 2019)

**7.3 Borough Local Plan 2013-2033 (February 2022) ('BLP')**

7.3.1 The Borough Local Plan 2013-2033: Submission Version ('BLP') was adopted by the Council on the 8<sup>th</sup> February 2022.

7.3.2 The BLP designates the Nicholson's Shopping Centre as forming part of the Primary Shopping Area with all of the retail units identified as a Primary Shopping Frontage. The Nicholson's MSCP is designated a mixed use development site.

7.3.3 Policy TR1 identifies Maidenhead as one of two town centres within the borough (the other being Windsor) and records that these centres will be the preferred location for the development of main town centre uses. Development proposals for main town centre uses including retail development, leisure, entertainment facilities, offices and arts, cultural and tourism development will be supported in accordance with the hierarchy, provided they are appropriate in terms of their scale and design, and are well-related to the centre.

7.3.4 The BLP, which has been informed by retail studies, recognises that a successful retail sector is key to securing a vital and viable town centre and that a key method of supporting the retail sector is through securing a mix of uses within town centres to maximise the likelihood of linked trips, which have the effect of increasing the amount of time spent in the centres and the likelihood of a higher spend per trip.<sup>2</sup>

7.3.5 The BLP seeks to maintain the dominance of retail units within the Primary shopping area and on designated primary shopping frontages. It recognises that non-retail uses support the town centre function and that restaurants, pubs and cinemas will be appropriate across a town centre to enhance the vitality and viability of a centre, but seeks to have a greater concentrations of these uses in secondary frontages with food and beverage outlets being complementary in the primary shopping area<sup>3</sup>.

7.3.6 Residential use is regarded by the BLP as being particularly helpful within town centres as it increases vitality, provides custom for town centre businesses and increases natural surveillance. Residential use at ground floor level are regarded as not appropriate within retail frontages as it can create a dead space without visual interest or appeal. However, the residential use of upper floors forms a valuable part of the mix of uses that supports a successful town centre<sup>4</sup>.

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<sup>2</sup> Para 9.4.1 BLP

<sup>3</sup> Para 9.5.2 and 9.5.3 BLP

<sup>4</sup> Para 9.5.7 BLP

- 7.3.7 The BLP recognises that since the adoption of the MTCAAP, a wider range of uses, including retail and non-retail floorspace may be more appropriate in the town centre and that there are currently significant numbers of empty units within the town centre at Maidenhead, although the numbers are declining.<sup>5</sup>
- 7.3.8 Policy TR3 provides that:
- Development proposals should promote and enhance the role of Maidenhead town centre and its vitality and viability. The retail role of Maidenhead will be supported and development proposals for the regeneration of sites for town centre uses and those that protect, enhance or diversify retail activity, within the primary shopping area will be supported.
  - Primary frontages, defined on the Policies Map, should include a high proportion of retail uses. Development proposals for non-retail uses within primary frontages will be permitted where they would enhance vitality and viability, be appropriate to the character and function of the area and retain prominent shop units within the primary frontage.
- 7.3.9 BLP Policy HO1 provides that The Borough Local Plan will provide for at least 14,240 new dwellings in the plan period up to 2033. The Spatial Strategy sets out that development will be focussed on existing urban areas, primarily Maidenhead, but also Windsor and Ascot.
- 7.3.10 BLP Policy HO3 seeks a minimum affordable housing requirement of 30% on non-greenfield sites delivering more than 10 additional dwellings with the tenure mix provided in accordance with the Berkshire Strategic Housing Market Assessment 2016, or subsequent affordable housing needs evidence. In assessing a site's capacity to deliver affordable housing the financial viability of developing the site is to be considered (Policy IF1).
- 7.3.11 The Nicholson Centre is identified as an allocated site (AL1) for mixed use development providing retail, community, 15,000 sq. m. (net additional) of employment space and approximately 500 residential units and a public square.
- 7.3.12 Development of the site will be required to:
- Be of exceptional design and a main focal point in terms of placemaking and town centre functions;
  - Act as the primary retail focus for Maidenhead providing high quality primary retailing frontages with a dominance of Class E(a) uses;
  - Create a highly permeable network of attractive human scale streets that are highly connected to surrounding streets and adjoining developments;
  - Provide a network of high quality pedestrian and cycle routes across the site and linked into surrounding areas and routes;

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<sup>5</sup> Para 9.8.4, 9.8.5 and 9.8.6 BLP

- Ensure that the development is well-served by public bus routes / demand responsive transport / other innovative public transport solutions, with appropriate provision for new bus stop infrastructure, such that the bus is an attractive alternative to the private car for local journeys. This will include provision of bus stops adjacent to the main frontages of the site and attractive way marking from Maidenhead Railway Station;
- Provide storage and parking for cycles and scooters;
- Provide an appropriate level of car parking, including electric car charging points, having regard to the Infrastructure Delivery Plan requirement for a permanent multi-storey car park (approximately 1,500 spaces) at Broadway;
- Be strongly connected in visual terms into the High Street with a visually prominent route through from the High Street through the site to the intersection of King Street and Broadway;
- Create a generous green infrastructure network on the site at both ground and upper levels to facilitate biodiversity enhancement, leisure and improved health and wellbeing for visitors, workers and residents;
- Plant large growing trees along the western side of the site, including on the junction of King Street and Nicolson's Lane and at the junction of King Street and Broadway corner;
- Provide mixed uses at ground floor levels throughout the development;
- Enable provision of public social spaces at upper levels in the form of an exceptional quality roof garden;
- Provide an exemplar quality designed public square at ground floor level to act as the focus for streets, pedestrian and cycling routes and the network of green infrastructure. The square will be expected to be fronted by high quality buildings housing a mix of retail, community and employment uses at ground floor level. The square will be human scale and a social space providing a favourable micro climate for outdoor leisure throughout much of the year. Blue infrastructure and public art will be expected to provide a focus for the square;
- Provide appropriate mitigation measures to address the impacts of noise and air quality in order to protect residential amenity;
- Contribute to the vitality, enclosure and enhancement of all surrounding streets, particularly the High Street, King Street and Broadway;
- Provide high quality attractive and animated frontages to Queen Lane and Brock Lane;
- Conserve and seek to enhance the significance of heritage assets and provide appropriate settings for these heritage assets;
- Be designed sensitively to consider the privacy and amenity of neighbouring residential properties;
- Maintain a human scale frontage to the High Street;
- Provide at least 30% affordable housing;
- Provide 5% of units for custom build opportunities;
- Address surface water flooding issues;
- Consider flood risk as part of a Flood Risk Assessment as the site is bigger than one hectare;

- Demonstrate the sustainable management of surface water runoff through the use of SuDS in line with policy and best practice; any proposed surface water discharge should be limited to greenfield runoff rates where feasible.

#### 7.4 **Maidenhead Town Centre Area Action Plan ('TCAAP') (September 2011)**

7.4.1 The MTCAAP provides updated designations to the ALP Proposals Map, with Nicholsons Shopping Centre identified as being within the Primary Shopping Area and the retail units within the shopping Centre being designated as 'Primary Frontages'. The Nicholsons MSCP is no longer identified as a Development Site but, together with part of the shopping centre and the 'Landing site' forms part of the Broadway Opportunity Area.

7.4.2 In respect of the Town Centre Economy, the MTCAAP sets out two objectives

1. Quicken the pace of urban development and promote economic growth by providing additional retail that supports and enhances the town centre's existing retail offer; promoting office development that reinforces Maidenhead's role as an attractive business centre; encouraging high quality tourism and hotel facilities; and creating an evening economy through improved restaurant, café and night time uses along High Street, Queen Street and King Street, as well as in the Opportunity Areas.
2. Promote mixed use development by ensuring Opportunity Areas are developed as comprehensive mixed use schemes; and by promoting town centre land uses that effectively complement and integrate to create a vibrant, stimulating and sustainable town centre environment.

7.4.3 Policy MTC7 provides:

"Maidenhead town centre will be the principal location for retail development. The town centre's retail role will be maintained and enhanced through the protection of retail activity within the Primary Shopping Area and the delivery of a major comprehensive retail led development in the Area for Major Retail Led Development (also see Policy OA1: Broadway Opportunity Area). New development should broaden the range of shopping opportunities and improve Maidenhead's image as a sustainable and high quality shopping destination.

Development will be required to:

1. *Protect and enhance retail activity within the designated Primary Shopping Area;*
2. *Focus new retail development within the Primary Shopping Area and the Area for Major Retail Led Development;*
3. *Ensure effective integration between the Primary Shopping Area, the Area for Major Retail Led Development, and frontages elsewhere."*



7.4.4 In respect of primary shopping frontages, Policy MTC7<sup>6</sup> states:

*“Within primary frontages, as illustrated on the proposals map, the retail character will be maintained and enhanced. Proposals therein for change of use or redevelopment from shops (Class A1) to other uses will only be permitted where they would:*

- 1. be appropriate to the character and function of the area; and*
- 2. not result in adverse impacts on existing uses within the frontage; and*
- 3. not result in the loss of a prominent shop unit within the primary frontages”*

7.4.5 The supportive text recognises the importance of retail to draw people into the town centre and stimulate the local economy. It also identifies that *“despite the presence of several national retailers, the town centre has experienced a gradual decline over recent years. Survey information suggests that many residents are dissatisfied with the range and quality of shops and, as a result, shop elsewhere....Securing the town centre as a desirable place to shop and spend time is fundamental to its rejuvenation and the improvement of the town’s image and character”*.

7.4.6 It further comments that *“Maidenhead has been losing trade to other centres and out of centre locations. To maintain and enhance overall vitality and viability, and to perform its role as a major centre within its catchment area, there is a need for major new retail led development in the town centre”*.

7.4.7 The MTCAAP designates the land to the south of Nicholsons Shopping Centre (the Landing site) for a comprehensive major retail led development to deliver up to 25,000 sq. m. of retail accommodation:

*“Development of this land will support and enhance the main shopping area and facilitate better links both to the existing shopping core, and to the railway station. In order to maximise benefits for retail trade and the wider town centre, any scheme should include a mix of types and sizes of retail unit, so as to complement and extend the existing range of retail opportunities. In particular, the opportunity should be taken to include a range of larger units than are available at present, together with an anchor variety or department store”<sup>7</sup>*.

7.4.8 This ambition is further articulated in Policy OA18: Broadway Opportunity Area which advances that a comprehensive retail led mixed use regeneration scheme comprising the following should be brought forward:

- 25,000 sq. m. of retail floorspace (gross);
- 190 residential dwellings (gross);
- 6,000 sq. m. of office floorspace (gross);
- Complementary leisure provision, particularly café and restaurant uses;

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<sup>6</sup> MTC7 is proposed to be superseded by Policy TR3 of BLP

<sup>7</sup> Para 4.5 MTCAAP

<sup>8</sup> Policy A1 is proposed to be superseded by BLP HO1 and ED2

- Replacement multi-storey car park.

7.4.9 The following development and design principles of particular relevance and importance to the redevelopment of this area include:

- Strengthening and enhancement of the town centre's overall retail offer;
- A mix of uses that complement the existing primary shopping area;
- Innovative and distinctive architecture reflective of its gateway location;
- Effective integration with existing shopping areas through strong and direct pedestrian connections to the Nicholson's Centre, King Street and Queen Street;
- Enhanced linkages between the railway station and the existing retail network;
- High quality, appealing retail environment with active frontages at ground level, both internally and externally, to King Street, Queen Street and Broadway;
- Incorporation of new central high quality public spaces;
- Promotion of access by walking and cycling and reduction in the dominance of vehicles;
- Vehicular access and servicing off Broadway and Queen Street.

7.4.10 Redevelopment of the Broadway Opportunity Area is seen as integral to the successful implementation of the TCAAP's spatial strategy and realisation of the overarching vision for the town centre. The MTCAAP states that in order to deliver the required comprehensive approach set out in this policy and reasoned justification, if necessary and, where there is a compelling case in the public interest, the council will consider the use of its compulsory purchase powers.

7.4.11 In respect of housing, Policy MTC12<sup>9</sup> states that new housing development will be supported throughout the town centre, with Opportunity Areas expected to make a significant contribution to housing. All proposals will be expected to contribute to a sustainable mix and choice of housing with higher density housing appropriate in suitable locations.

7.4.12 The MTCAAP recognises<sup>10</sup> that town centres are becoming increasingly more important as a place to live and that this is to be welcomed as it adds vitality and some feeling of ownership of the streets and spaces. Whilst new homes will be built across the Royal Borough, Maidenhead town centre has the potential to accommodate around 800 new homes within the Opportunity Areas. Past consultation shows strong support for continuing the existing approach of intensification of urban areas to help protect the Green Belt and to reflect their general sustainability. Maidenhead town centre is seen in particular as a location where high density housing development can be supported.

7.4.13 Whilst flats are likely to make up the majority of new housing across the town centre, the MTCAAP<sup>11</sup> provides that developments should provide a mix of dwelling size and avoid being dominated by one-

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<sup>9</sup> Proposed to be superseded by BLP Policy HO1

<sup>10</sup> Para 5.2

<sup>11</sup> Para 5.3

bedroom units. In terms of affordable housing, the council currently seeks to achieve a 30% proportion of the total units provided on developments involving a net increase of 15 or more dwellings through Local Plan Policy H3.

7.4.14 The MTCAAP acknowledges that accessibility is key to a successful town centre. It reports that whilst Maidenhead's town centre is generally easy to get to, there are several aspects / barriers which restrict ease of access. The rejuvenation provides the opportunity to overcome these barriers to make the town centre more accessible particularly by walking, cycling and public transport.

7.4.15 Policy MTC1412 provides that accessibility to the town centre will be optimised for all modes of travel, with a specific focus on creating a safe and comfortable environment for pedestrians and cyclists and improving access by public transport. Development should where appropriate:

- Provide improved pedestrian and cyclist connections to and through the town centre;
- Enhance accessibility by bus;
- Facilitate better integration between transport modes, particularly train, bus and taxi;
- Optimise traffic flows and circulation, including the use of signage, to minimise congestion;
- Provide adequate parking facilities, including disabled parking spaces, motorcycle parking and cycle parking, and provision of electric vehicle charging points.

7.4.16 Policy IMP1 states that the council will use its powers of compulsory acquisition, where applicable and where there is a compelling case in the public interest, to bring forward the rejuvenation of Maidenhead town centre.

7.4.17 The MTCAAP acknowledges that whilst some sites could be developed independently of one another, in some areas it is preferable for landowners, occupiers and developers to work together to unlock the potential and achieve a better solution. The council will work with landowners and developers to assist the process of rejuvenating the town centre and the delivery of the MTCAAP. Where there is a need for site assembly, and this is not forthcoming through private treaty and negotiation, the council will consider using its compulsory purchase powers where there is a compelling case in the public interest. In such circumstances, it will be necessary for the promoter of the comprehensive development to demonstrate their ability to deliver the scheme<sup>13</sup>.

## 7.5 **National Planning Policy Framework (2019)**

7.5.1 The NPPF published in February 2019 is a revision of the National Planning Policy Framework published in March 2012. The NPPF has been updated to incorporate proposals previously consulted on in the Housing White Paper and the 'Planning for right homes in the right places' consultation.

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<sup>12</sup> Proposed to be superseded by BLP Policy IF2

<sup>13</sup> Para 8.8 MTCAAP

- 7.5.2 The NPPF sets out the Government's planning policies for England and how these should be applied. Its purpose is to provide a framework within which locally-prepared plans for housing and other development can be produced. The NPPF continues to not form part of the Development Plan, but as it must be taken into account in the preparation of development plans, it is a material consideration in planning decisions.
- 7.5.3 The NPPF maintains the presumption in favour of sustainable development at its heart, setting out the three overarching objectives of the planning system:
- (i) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
  - (ii) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
  - (iii) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change, including moving to a low carbon economy.
- 7.5.4 In respect of the delivery of a sufficient supply of new homes, the NPPF states that to support the Government's objective of significantly boosting the supply of new homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay (Paragraph 59).
- 7.5.5 The NPPF acknowledges that inadequate housing can be a potential barrier to investment and that planning policies should address this (paragraph 81).
- 7.5.6 Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. The NPPF states (paragraph 85) that planning policies should promote their long-term vitality and viability of town centres by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, and allow a suitable mix of uses (including housing). The NPPF highlights that planning policies should recognise that residential development often plays an

important role in ensuring the vitality of centres and encourage residential development on appropriate sites.

7.5.7 Paragraph 91 provides that planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

- a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;
- b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas; and
- c) enable and support healthy lifestyles, especially where this would address identified local health and wellbeing needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

7.5.8 The NPPF states that:

“planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or ‘brownfield’ land” (paragraph 117)

7.5.9 Paragraph 118 provides that policies and decision should promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively, with paragraph 123 advising that developments should make optimal use of the potential of each site.

7.5.10 The NPPF states that planning policies and decisions should support the creation of high quality buildings and places (paragraph 124) and in paragraph 127 that developments should:

- (i) function well and add to the overall quality of an area;
- (ii) be visually attractive as a result of good architecture, layout and effective landscaping;
- (iii) be sympathetic to local character and history, including the surrounding built environment and landscape setting;

- (iv) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- (v) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- (vi) create places that are safe, inclusive and accessible, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

## **8 JUSTIFICATION FOR THE USE OF COMPULSORY PURCHASE POWERS**

- 8.1 The Council considers that there is a compelling case in the public interest for the making of the Order.
- 8.2 The principle of the Scheme is supported by both national planning policy and emerging local policy. The Council's Maidenhead Area Development Management Panel resolved to grant planning permission on the 3<sup>rd</sup> March 2021 and a s.106 agreement is in the process of being concluded. The Council considers the Scheme will make a positive contribution to the promotion of achievement of the economic, social and environmental wellbeing of the area.
- 8.3 Single ownership and control of the Order Land is required to enable the Scheme to proceed. The Council is satisfied that the Developer has made reasonable attempts to acquire outstanding interests by private agreement. The Council and Developer has attempted, and will continue to attempt, to purchase the outstanding interests by private agreement. However, given the number of third party interests identified in the Schedule to the Order, the Council considers it unlikely that it will be able to acquire all of these interests by agreement within a reasonable time period. The exercise of compulsory purchase powers will enable redevelopment to take place at an earlier date by providing certainty in respect of site assembly.
- 8.4 The Council has considered the need to include each parcel of land and each new right in the Order Land and is satisfied that these interests are required for the delivery of the Scheme.
- 8.5 In respect of an Order made under s.226 TCPA 1990, paragraphs 13, 15 and 106 of the CPO Guidance identifies the following issues be considered:
- (a) whether the purpose for which the land is being acquired fits with the adopted planning framework for the area or where no such up to date Local Plan exists, with the draft Local Plan and the National Planning Policy Framework;

- (b) the extent to which the Scheme would contribute to the achievement of the promotion and/or improvement of the economic, and/or social, and/or improvement of environmental well-being of the Council's area.
- (c) the potential financial viability of the Scheme, general funding intentions and the timing of available funding and that there is a reasonable prospect of the Scheme going ahead;
- (d) whether the purposes for which the proposed Order Land is to be acquired could reasonably be achieved by any other means.

8.6 Each of these matters is addressed in turn.

**8.7 Whether the purpose for which the land is being acquired fits with the adopted planning framework for the area**

8.7.1 The BLP designates the Nicholsons Centre as an allocated housing site (AL1), setting out detailed objectives for its redevelopment as a mixed use scheme providing a mix of retail, community, employment and residential accommodation. This policy is informed by the updated Retail Town Centre Study (2019) which identified that Maidenhead Town Centre will have a theoretical oversupply of comparison goods floorspace in 2024 and that there is limited capacity for additional floorspace by 2029 (about 900 sq. m. net), before rising to about 1,150 sq. m. net by 2033 and about 1,200 sq. m. net by 2036 if forecast trends occur.

8.7.2 These quantitative findings are mirrored in the qualitative assessment with the Retail Study Update (2019) recording that whilst the Nicholson's Shopping Centre has a range of major and multiple retailers, it comprises a number of vacancies (particularly at its eastern end). The Retail Study Update states:

*“given its location in the heart of the town centre with good connectivity to Maidenhead railway station, we consider this site represents a prime opportunity for substantial improvement or redevelopment. Suitable proposals for the centre would include a mix of uses including ground floor retail, leisure (including food & beverage) and community space, with ground floor and upper floor residential uses. There is also scope for office uses (subject to demand). Notwithstanding the existing level of vacancies within the centre, we consider that any scheme is unlikely to result in a substantial net increase of A1 retail floorspace (given the structural changes in the retail sector and the growing significance of nonA1 uses in supporting the vitality and viability of town centres). The improvement or redevelopment of the centre would, however, generate notable qualitative benefits; such as attracting new occupiers, enhancing the consumer experience, and improving the town centre as a place to live and work.”*

- 8.7.3 The BLP designates the Nicholson's Shopping Centre as providing an opportunity for a mixed use development providing retail, community and employment space, and approximately 500 residential units and a public square. The Development delivers 638 residential units (346 residential and 292 Senior Living) and 35,219 sq. m. of employment floor space (7,469 sq. m. of retail; 27,750 sq. m. of offices).
- 8.7.4 The Site Proforma for Site Allocation AL1: Nicholson Centre details the objectives sought from the redevelopment and it is clear that the proposed scheme delivers upon these: the scheme is of an exceptional design; maintains a high quality retail environment with a focus on a mix of retail uses and animated frontages at ground floor level; significantly improves permeability through the site and connectivity with other parts of the town centre; delivers modern car and cycle parking; provides an significant increase to public open space; and is sensitive to the conservation area and neighbouring residential properties.
- 8.7.5 The resolution to grant permission for the Development illustrates that the Scheme accords with the planning framework of the area with the planning officer's report stating that officers support the principle of large scale residential, retail, community and office development at the site<sup>14</sup> and that the design, height and massing of the development is considered acceptable having regard to the emerging evidence based documents with officers considering that as a gateway development the NQD would contribute positively to the evolving context of Maidenhead town centre<sup>15</sup>.
- 8.8 **The extent to which the Scheme would contribute to the achievement of the promotion and/or improvement of the economic, and/or social, and/or improvement of environmental well-being of the Council's area**
- 8.8.1 The existing Nicholsons Shopping Centre is underperforming. The MTCAAP, prepared in 2011, cited resident surveys reporting that many residents were dissatisfied with the range and quality of shops in Maidenhead town centre and as a result shop elsewhere. The shopping centre has continued to underperform since this date, reflecting the change in shopping habits towards online retail and also the downward cycle that can envelope a shopping centre when retailers exit, customers become dissatisfied at the retail offer, elect to shop elsewhere, which then further impacts the range and quality of the retail offer as more retailers exit or choose not to move into the centre. Unconnected to the redevelopment proposals, retailers continue to close units within the shopping centre reflecting the changes and pressures of the retail market. As identified by the 2019 Retail Study, Maidenhead has a theoretical oversupply of retail accommodation.
- 8.8.2 The NQD will represents a significant investment in the area, the benefits of which will be considerable to the economic, social and environmental wellbeing of the Borough. The key benefits of the scheme are:

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<sup>14</sup> Para 9.2.16 of Officer's Report

<sup>15</sup> Para 11.3 of Officer's Report



- Bringing forward much needed regeneration in a highly sustainable location on previously developed brownfield land, replacing a failing covered shopping centre and building on the district role of Maidenhead and the introduction of Crossrail to the town;
- Significant investment in Maidenhead representing a vote of confidence and encouraging ongoing growth and investment, fulfilling aspirations for the town centre to become a place to live, work and play;
- Delivering modern retail accommodation, sized and configured to meet the needs of existing and forecast operators and users, specifically those living in, working in and visiting Maidenhead, complimenting and enhancing the rest of the town centre. This will result in promoting Maidenhead and bringing new retailers to the town;
- Delivery on the need for much needed new homes, providing a range of apartment types and sizes in a centrally located sustainable town centre location, meeting identified need and assisting in meeting RBWM's housing targets;
- Provision of high-quality senior living accommodation in a central, highly accessible location, close to important existing and new amenities, which is well suited to meeting identified needs for senior living accommodation;
- Providing significant new high quality landscaping and public realm, including a new public town square for those living in, working in and visiting Maidenhead and introducing new pedestrian routes and permeability improvements through Maidenhead town centre linking the town centre, station and surrounding public parks;
- Re-provision of a new and improved town centre car park, serving Maidenhead's existing and proposed retail and services offer and incorporating cycle parking and electric vehicle charging to promote more sustainable modes of travel as well as introducing new public transport infrastructure to increase accessibility;
- Provision of a new museum and community centre, celebrating Maidenhead's history and diversity;
- Creation or accommodation of approximately 2,700 new jobs across a variety of uses with considerably more jobs created during the construction and fit out period, and significant economic benefits associated with these new opportunities;
- Additional local spend by residents and workers, with this conservatively estimated at £11.4m per annum;

- Building upon the highly accessible location with an existing and planned excellent level of public transport, pedestrian and cycle accessibility and introducing design measures including site layout, design and management to encourage enhanced accessibility and inclusivity and a sustainable scheme;
- Delivering modern, energy and carbon efficient accommodation which meets current design and building control standards. The development will utilise green roofs to encourage ecological diversity and provide a sense of wellbeing.

8.8.3 The Development includes the following sustainability measures:

- The use of low and zero carbon technology within the site in the form of heat pumps, PV panels and minimum 'A' rated appliances so to reduce energy use within the site;
- The targeting of all office space above 500 sq. m. being delivered to a BREEAM rating of Excellent under the 2018 regulations;
- Delivering water use efficiency through utilising low water use sanitary ware and leak detection devices;
- The inclusive of biodiverse roofs, wildlife friendly planting and climbing plants against the wall of the multi-storey car park;
- Facilities to store 803 bicycles to help promote cycling;
- Increasing the number of trees across the site from 4 to 173;
- Installing 125 electric vehicle charging points.

8.8.4 The Development is also intended to provide an excellent quality of design that integrates with and improves the existing urban fabric of the town. The Design South East Design Review Panel has been engaged with during the application process and has stated::

*“The applicant and design team are commended for their aspiration for a major town centre scheme in Maidenhead.”*

*“The proposal has achieved a comfortable sense of scale, height and massing that builds up to the landmark tower at the south of the site.”*

*“The overall layout is sensible, providing well-resolved and connected spaces that promote permeability throughout”*

*“The proposal for finer grain development at the north east of the site, named ‘The Yards’, is an interesting concept that works well with the more formal structure of the rest of the development”.*

8.8.5 Overall it is clear that the Development is capable of delivering tangible benefits that will contribute to the achievement of the promotion and improvement of the economic, social, and environmental well-being of the Council's area in line with the Scheme objectives. The intensification of development on a sustainable, previously developed and centrally located site together with the introduction of a mix of uses will help re-establish the function of the town centre and allow it to sustain itself as a viable town centre into the future.

**8.9 The potential financial viability of the Scheme, general funding intentions and the timing of available funding and that there is a reasonable prospect of the Scheme going ahead**

8.9.1 The Nicholsons Shopping Centre is a covered mall constructed in the 1970s, providing 55 shop units that no longer meets the requirement of modern retail formats. The Shopping Centre was acquired from Administration by the Developer, in March 2019 for £25m. The property was purchased with the intention of redevelopment, with the Centre no longer able to fulfil its role as a viable retail destination, as evidenced by the fall in value from the sale in 2007 for £85m, followed by a sale in 2015 for £37m and thereafter for £25m in March 2019. The fall in value is reflective of the lack of occupier demand for accommodation, which has resulted in falling rental values and greater investor risk. Despite the fall in rental levels, the centre is not considered a viable trading location by a number of high street national retailers due to expected trading performance.

8.9.2 Since the purchase in March 2019, seven occupiers have vacated the centre at their choice and Tesco, an anchor store, vacated in September 2020. Of those tenants remaining in occupation there are a number that are in occupation on a concessionary rent basis. High Streets across the UK have been in decline for several years and this has been further accelerated by Covid-19. The decline of the Nicholson's Shopping Centre is apparent and if the redevelopment were not to proceed it would not be possible to attract occupiers into the Centre on viable financial terms.

8.9.3 It was in recognition of the need for intervention and the re-purposing of the shopping centre so it could achieve its full potential that the Developer purchased the shopping centre.

8.9.4 The Developer is a collaboration between Tikehau Capital and Areli Real Estate. Tikehau Capital are an asset management and investment group which has c. £9 Billion of real estate assets under management across Europe. The business invests in various asset classes, including real estate, and a key emerging element of its portfolio is investing in UK shopping centres such as the Nicholson's Shopping Centre, Maidenhead and the Walnuts Shopping Centre, Orpington which offer regeneration opportunities to deliver long-term placemaking.

8.9.5 Areli Real Estate is a UK based urban regeneration specialist which works as an operating partner to Tikehau Capital on its redevelopment portfolio in the UK. Areli Real Estate was formed in 2018 to focus specifically upon mixed use, urban regeneration and placemaking, particularly in struggling high streets and town centres which require investment. Whilst a relatively new company, Areli's

team has a collective wealth of experience in delivering complex, mixed-use development schemes and the team have secured planning consents for c.40 million sq. ft. of mixed-use development projects. including:

- Battersea Power Station, London – one of London’s most challenging redevelopment schemes and at 10 million sq ft, Battersea Power Station remains Central London’s largest ever planning permission and created a whole new community providing new homes, shops, bars and restaurants, public realm and new offices, including Apple’s 500,000 sq ft UK HQ.
- Gunwharf Quays, Portsmouth – a redevelopment of a 33 acre derelict naval base to provide a mixed-use development of offices, residential. retail, restaurants, leisure and hotel accommodation.
- Hounslow High Street Quarter, London – a development of c.527 residential units and 10,000 sq. m. of commercial accommodation including a multi-screen cinema, retail and leisure accommodation, located in the centre of Hounslow Town Centre.

8.9.6 Areli Real Estate are currently responsible for the delivery of c.10,000 residential units and 3.5 million sq. ft. of commercial floorspace, across a number of schemes in Greater London and the South East

8.9.7 The Developer is committed to the redevelopment of the Nicholsons Shopping Centre. It was with this intention that it purchased the property in 2018 and why it has committed significant funds in the region of c.£4M to advancing the redevelopment in respect of planning, design and other professional fees.

8.9.8 The proposed development will be delivered on a phased basis with the Developer taking a long term approach to the investment and deliverability of the scheme. The Developer is confident that the underlying economic and property fundamentals are robust and that the scheme can be delivered within a reasonable timescale, allowing for a sufficient level of return.

8.9.9 The returns generated from the development also need to be contrasted against the depreciating value of the asset if there is no intervention: the significant changes in the retail market, which are forecast to be expedited following the Covid-19 pandemic and the further shift in shoppers behaviour towards online shopping, means that the underlying value of the shopping centre and the rental returns that can be generated may be further eroded. In short, in order to secure longevity of value for its asset the Developer has a vested interest in carrying out the Development. The full application elements of the Development will allow the Developer to commence development once the necessary land assembly has taken place. The anticipated programme for delivering the development is summarised below:

	<b>Start</b>	<b>End</b>
Enabling and Demolition Works	January 2022	October 2023
MSCP (Zone 4),	January 2024	February 2026
Residential (Zone 5)	January 2024	November 2026
Commercial (Zone 2)	January 2024	April 2025
Commercial (Zone 3)	January 2024	November 2025
Commercial (Zone 1)	November 2023	November 2025
Residential (Zone 6)	January 2024	July 2026

8.9.10 A Stopping Up Order is required for some small areas of public highway that fall in close proximity to the existing shopping centre as noted at 10.3.1 under s.247 TCPA 1990 to facilitate the Development. The extent of the highway being stopped up was considered in the context of the planning application and the Council considers that it will be able to demonstrate a strong case for the confirmation of the Stopping Up Order.

8.9.11 The Council considers there are no impediments to the delivery of the Scheme.

8.10 **Whether the purposes for which the proposed Order Land is to be acquired could reasonably be achieved by any other means within a reasonable timeframe.**

8.10.1 In light of the number of existing tenants with whom agreement needs to be reached for the variation of their lease, together with the extent of land over which new rights are required in order to allow the development to be constructed, it is considered that the only sure way of securing development of the Scheme within a reasonable time period is for a Compulsory Purchase Order to be made.

8.10.2 Single ownership and control of the Order Land is necessary to enable the Scheme to proceed. Given the number of third party interests identified in the Schedule to the Order it is unlikely that the Council or the Developer will be able to acquire all of the necessary interests by agreement within a reasonable timescale.

8.10.3 The Council has therefore made the Order to ensure that the significant benefits of the Scheme can be brought forward in a reasonable timescale. Whilst the Council's approach is to negotiate the purchase of all interests wherever possible by agreement, given the fragmented nature of the Order

Land, confirmation of the Order is required in order to use compulsory purchase powers where necessary.

- 8.10.4 Whilst alternative locations for development exist within Maidenhead, this site, as evidenced by its inclusion within the BLP as an allocated housing site (AL1), is important in respect of the delivering social, economic and environmental improvements to the town centre. The opportunities for the town centre presented by the proposed redevelopment of the site are considerable.
- 8.10.5 The Order Land is unique in its ability to improve accessibility and permeability through the town centre through the creation of a new public access connecting the train station to the south-west and the High Street to the north. Whilst delivering development on other sites contributes to housing numbers, this site has been recognised as an important contributor to meeting the Council's vision for the town centre.
- 8.10.6 The Developer is the main freeholder/long leaseholder of the majority of the development site and is therefore well placed to bring forward the Development in a comprehensive and coherent manner, delivering the social, economic and environmental benefits anticipated by the planning policy objectives. Part of the development site is owned by the Council and a separate commercial agreement has been entered into with Denhead to allow the land to be made available as part of the Development.
- 8.10.7 Consideration has been given as to whether the scheme could be delivered in the absence of the acquisition of the interests outside of the Council and Developer's control. In the Council's opinion this is impossible: the redevelopment of the shopping centre requires the demolition of the majority of the existing shopping centre which in turn requires vacant possession, crane oversailing rights are required over a significant number of properties to allow for construction, and access rights and rights of use interfered with.
- 8.10.8 The support of a CPO and the use of the Council's appropriation powers will be required to deliver the Scheme. Without this it is very likely that the Scheme objectives may never be achieved.

## **9 NEGOTIATIONS WITH THOSE OWNING INTERESTS IN THE ORDER LAND**

- 9.1 The Nicholsons Shopping Centre comprises 55 retail units and 3 concession stands. Since Areli Real Estate purchased the centre in March 2019, it has actively engaged with tenants through its letting agents (Jackson Criss) to secure, where required, variations to leases so to provide increased flexibility in respect of securing vacant possession so the redevelopment can be progressed. The strategy employed has been a successful one, agreements have been reached with a number of tenants but it is also noteworthy that some tenants are vacating accommodation on their own volition, exercising break options on account of poor trading performance unrelated to the proposed redevelopment of the centre.

- 9.2 At present there are 4 tenants who occupy retail accommodation with whom an agreement has not been completed to vary their lease terms. Negotiations are ongoing, led by Jackson Criss where there is an existing relationship, or where it is clear that negotiations will centre on compensation entitlement under the compensation code, Newsteer Real Estate Advisors. In accordance with paragraph 2 of the CPO guidance, financial terms discussed have been based on the compensation entitlement of the tenant if the property was acquired under a confirmed Compulsory Purchase Order. Where requested, assistance has also been offered to occupiers in sourcing suitable relocation properties.
- 9.3 Whilst there is constructive dialogue with most occupiers with whom agreement has not yet been reached for a variation of their lease terms, in some instances there is a notable difference of opinion as to the level of payment due to secure varied lease terms. In other instances, retailers have not yet proactively engaged despite appointing surveyors to lead discussions.
- 9.4 There are number of properties that have the benefit of rights across the Nicholson's Shopping Centre, including rights of servicing, car parking and refuse, with discussions active with all parties to extinguish the existing rights and provide both temporary and permanent rights through legal Undertakings and Deed of Easements.
- 9.5 Discussions will continue with the owners of the relevant interests who are willing to modify their lease terms or sell their interest by agreement. However, it is recognised that there is no guarantee that these attempts will be successful and accordingly, without the Order, there is no certain prospect of the Scheme proceeding.
- 9.6 The use of the Council's compulsory purchase powers is therefore necessary to ensure that vacant possession of the retail accommodation can be secured within a reasonable timescale and allow the proposed redevelopment to proceed.

## **10 OTHER MATTERS**

### **10.1 Human rights**

- 10.1.1 The Human Rights 1998 came into force on the 2 October 2000. This incorporated the European Convention on Human Rights into English Law. Human Rights must be considered by acquiring authorities when considering utilising compulsory purchase powers. As outlined in the Human Rights Act, public authorities are prohibited from acting in a way which is incompatible with the European Convention in Human Rights.
- 10.1.2 The Council has duly considered the rights of property owners under Article 1 of the First Protocol of the Convention, which provides for the peaceful enjoyment of possessions. Article 1 further provides that no one shall be deprived of possessions except as provided for by law or where it is in the public

interest. It is considered that the Order will strike a fair balance between the private loss of property and the public interest in securing the implementation of the Scheme.

10.1.3 Article 6 of the Convention provides that everyone is entitled to a fair and public hearing in the determination of their civil rights and obligations. It is considered that the statutory procedures, which give the right to object and provide for judicial review, are sufficient to satisfy the requirements of this Article.

10.1.4 The Council has also considered the rights contained in Article 8 of the Convention. This provides that everyone has the right to respect for their private and family life and that there shall be no interference by a public authority with the exercise of this right except in accordance with the law, where there is a legitimate aim and where it is fair and proportionate in the public interest. It is considered that any interference caused by the Order will fall within these exceptions having regard to the public benefit which will accrue from the Scheme.

10.1.5 The Council have been conscious of the need to strike a balance between the rights of the individual and the interest of the public. The Council acknowledge that the effect of the Order will be to dispossess persons of their rights in the Order Land, but the Council has concluded that there is a wider compelling case in the public interest for the acquisition of the land as this will bring benefits to both residents and businesses of the borough that could not be achieved by agreement or without the exercise of compulsory purchase order making powers.

10.1.6 In considered Human Rights the Council has decided that in light of the significant public benefit that would arise from the Scheme and the nature of the Order Land, it is in the interest of the wider community to make the Order over and above the interests of any individuals affected. Any interference with the Convention rights is considered to be justified in order to secure the economic, social, physical and environmental regeneration that the Scheme will bring. Appropriate compensation will be available to those entitled to claim it under the relevant statutory provisions.

10.1.7 This compulsory purchase order follows existing legislative provision in respect of the making and confirming of Compulsory Purchase Order and the payment of compensation and, as such the Council considers these to be compatible with the convention.

## 10.2 **Consultation**

10.2.1 The Developer has been committed to public engagement from the outset of the development process and as summarised below a significant level of engagement has been undertaken:

- a Community Planning Weekend (CPW) was held between 22 and 26 March 2019, including presentations, exhibitions, walkabouts, dialogue workshops and hands-on planning design groups to consider the issues;



- The CPW team summarised the outcomes of the workshops and discussions and drew up an illustrative vision which was presented back to the community at a Report Back event on 26 March 2019;
- The Developer's consultancy team took part in the Council's Community Drop-in days, providing an update on emerging proposals as part of a wider town engagement event (13<sup>th</sup> September 2019);
- A Community Stakeholder Update Exhibition to preview the emerging proposals to invited local key stakeholders was held on 10 October 2019;
- A Community Update Exhibition was held on 11 and 12 October 2019 to review the emerging proposals with the local community;
- The Developer took part in the Maidenhead United FC Business Networking Event on 29 October 2019 to discuss the emerging proposals with local businesses;
- Presented updates on the emerging proposals to the Disability & Inclusion Forum on 6 January 2020 and 11 September 2020
- Following submission of the planning application, in May 2020, leaflets outlining the proposals were distributed to 27,500 households, together with the creation of a project website and app. To date 1,600 responses have been received with 82% supportive of the application.

### 10.3 Related Orders

10.3.1 A stopping up order will be required in respect of four small areas of public highway at the following locations:

- (i) A small parcel of adopted highway relating to the footpath adjacent to 51 King Street where the new development extends into the existing footpath;
- (ii) A small part of the adopted highway at Nicholson Lane where the footprint of a new building sits within the road;
- (iii) A slither of public adopted highway located to the north of the shopping centre's entrance between 75 – 77 High Street on account of the new development moderately extending forward;
- (iv) A small triangular parcel of land at the junction between Brock Lane and Bankside.

10.3.2 Each of these areas is a small parcel of land which once stopped up will not interfere with access to neighbouring properties. The Order will be advanced under s.247 TCPA 1990 to facilitate the Development. The extent of the highway being stopped up was considered in the context of the planning application and the Council considers that it will be able to demonstrate a strong case for the confirmation of the Stopping Up Order.

#### 10.4 **Conservation area and listed buildings**

10.4.1 There are no listed buildings or Scheduled Ancient Monuments within the Order Land. The Order Land also falls outside the Conservation Area. There is a nil return certificate for protected assets.

#### 10.5 **Public Sector Equalities duty**

10.5.1 In formulating and promoting the Order, the Council has had regard to its statutory duties and obligations under the Equality Act 2010 and in particular its obligations under Sections 149 and 150 of the said Act in taking into account the differential impact the Order will have on various groups of persons with different characteristics.

10.5.2 An Equalities Impact Assessment has been undertaken. The assessment has not identified any adverse equalities impacts from exercising the Council's CPO powers in order to facilitate the development scheme.

## 11 **CONCLUSION**

11.1 The CPO Guidance sets out guidance for acquiring authorities regarding the making and confirmation of CPOs. This includes key policy tests which the Secretary of State will expect to be satisfied before a CPO is confirmed.

11.2 The Order is made under It is s.226(1)(a) TCPA 1990 on the basis that a CPO is required to facilitate the redevelopment of the Order Land; the Council is satisfied that acquisition of the Order Land will result in economic, environmental and social wellbeing benefits both for the immediate environs of the Order Land and more widely the Borough. It is considered that the tests to be considered by the Secretary of State when deciding whether to confirm the Order are fully satisfied.

11.3 In respect of the Planning Framework test (Test 1), the BLP introduced planning policy in respect of the Nicholsons Shopping Centre which reflects the changes in the retail market and the changing requirements of town centres to ensure their vitality and viability.

11.4 It is clear that the proposed scheme delivers upon the majority of planning objectives for the site: the scheme is of an exceptional design; maintains a high quality retail environment with a focus on a mix of retail uses and animated frontages at ground floor level; significantly improves permeability through the site and connectivity with other parts of the town centre; delivers modern car and cycle parking; provides an significant increase to public open space; and is sensitive to the conservation area and

neighbouring residential properties. The Local Planning Authority's resolution to grant permission also demonstrates that the scheme aligns with the planning framework.

- 11.5 The Scheme delivers significant Economic, Social and Environmental Wellbeing benefits (Test 2) and The NQD will deliver significant improvements to the town centre, helping to ensure its future viability and vitality.
- 11.6 As to the third consideration (other means of achieving the Council's purpose in acquiring the land), the purposes for which the land is to be acquired could not be achieved by any alternative means. All of the Order Land is required for the proposed development. The regeneration of the Order Land will not be achieved without the use of compulsory purchase powers, but the powers will only be used where the required land and interests cannot be acquired by negotiation. As such, the use of compulsory purchase powers is proportionate.
- 11.7 The Developer has the necessary expertise to deliver the Development proposals. It is already a key freehold owner of part of the Order Land, acquired with the intention to enhance its asset based on a long-term approach to investment.
- 11.7.1 The site is unique in its ability to deliver a significant change to the town centre. A poorly performing shopping centre will be replaced with a significant quantum of development, introducing differing forms of development into the heart of the town centre which will improve the viability and vitality of the town centre. The design of the new development will improve accessibility and permeability through the town centre through the creation of a new public access connecting the train station to the south-west and the High Street to the north. Whilst delivering development on other sites contributes to housing numbers, this site has been recognised as an important contributor to meeting the Council's vision for the town centre.
- 11.8 Paragraph 13 of the CPO Guidance advises that it will be difficult to show conclusively that the compulsory acquisition of land is justified in the public interest if the acquiring authority cannot show that all the necessary resources are likely to be available to achieve that end within a reasonable time-scale. The Developer is committed to delivering the Scheme; it purchased the shopping centre with the ambition of redevelopment, has spent significant sums advancing design, planning and land assembly, and has a long-term objective to realising the redevelopment of the site. It is confident that the underlying economic and property fundamentals are robust and that the scheme can be delivered within a reasonable timescale, allowing for a sufficient level of return.
- 11.9 Whilst affected parties have been engaged and negotiations are ongoing, it is clear that unless the Order is confirmed, the Council would be unlikely to be able to assemble the land and interests needed within a reasonable timescale. Therefore, unless the Order is confirmed, the process of land assembly will inevitably delay the delivery and progression of the Scheme.

- 11.10 Accordingly, the Council considers that the tests to be applied when considering whether to confirm a CPO made under section 226(1)(a) TCPA 1990 are met, the criteria in the CPO Guidance is satisfied and that there is a compelling case in the public interest for the confirmation of the Order.

## 12 CONCLUSION

For the reasons explained above, the Council therefore considers there to be a compelling case in the public interest for the confirmation of the Order.

## 13 ADDITIONAL INFORMATION

- 13.1 Information about the Scheme and copies of the CPO documents are available at the Council's website <https://www.rbwm.gov.uk/home/business-and-economy/regeneration/nicholsons-quarter-regeneration-compulsory-purchase-order>

## 14 LIST OF DOCUMENTS IN THE EVENT OF AN INQUIRY

- 14.1 In the event of a public inquiry, the Council would intend to refer to or put in evidence the following documents

No	Document Name
1	Guidance on Compulsory purchase process and The Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion" issued by the Department for Communities and Local Government (July 2019)
2	Maidenhead Town Centre Area Action Plan (September 2011)
3	Borough Local Plan 2013-2033 (February 2021)
4	National Planning Policy Framework (NPPF) (July 2019)

- 14.2 The Council reserves the right to introduce such additional documents as may be relevant to any public inquiry in respect of the Order and will endeavour to notify the public inquiry and any statutory third parties of any such documents as soon as possible prior to the opening of such public inquiry