

TOWN & COUNTRY PLANNING ACT 1990

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

ACQUISITION OF LAND ACT 1981

**LONDON BOROUGH OF MERTON (HIGH PATH NO 1)**

**COMPULSORY PURCHASE ORDER 2022**

## **STATEMENT OF CASE**

Under Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules  
2007

Planning Inspectorate Reference: APP/PCU/CPOP/T5720/3303018

<b>Contents</b>	<b>Page</b>
<b>1</b>	<b>Introduction and background..... 1</b>
	<b>The Developer..... 2</b>
	<b>Evolution of the Scheme..... 2</b>
	<b>The Scheme ..... 3</b>
	<b>The Order ..... 5</b>
<b>2</b>	<b>High Path Estate – Existing and Proposed Regeneration ..... 6</b>
	<b>The Estate – Existing ..... 6</b>
	<b>Proposed Regeneration ..... 8</b>
<b>3</b>	<b>Land and Rights to be acquired ..... 10</b>
	<b>Land and Rights to be acquired ..... 10</b>
	<b>The Order Map ..... 11</b>
	<b>Land and Rights no longer required..... 11</b>
<b>4</b>	<b>The Purpose for which Land is to be Acquired ..... 11</b>
	<b>Condition of Estates ..... 12</b>
	<b>Case for regeneration at the High Path Estate ..... 13</b>
	<b>Alternatives Considered ..... 15</b>
	<b>Improvements delivered by the High Path Estate Regeneration ..... 17</b>
<b>5</b>	<b>Planning Considerations ..... 19</b>
	<b>Planning Permissions ..... 19</b>
	<b>Estates Local Plan..... 21</b>
	<b>National Planning Policy Framework (NPPF)..... 22</b>
	<b>London Plan..... 22</b>
	<b>Core Planning Strategy..... 23</b>
	<b>Other Relevant Policy and Guidance..... 23</b>
	<b>Conclusions..... 24</b>
<b>6</b>	<b>The Council's Power to Acquire Land Compulsorily ..... 24</b>
<b>7</b>	<b>Justification for use of Compulsory Purchase Powers ..... 25</b>
	<b>Whether the purpose for which the land is being acquired fits with the adopted planning framework for the area ..... 26</b>
	<b>Contribution to the social, economic and environmental well-being of the area ..... 26</b>
	<b>The Scheme Generally ..... 27</b>
	<b>High Path Estate and the Order Land ..... 28</b>

	Viability of the regeneration and general indication of funding intentions .....	31
	Prospect of Scheme proceeding: Implementation of the Scheme.....	32
	Whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means .....	32
	Conclusions regarding the need for the Order at this time .....	32
8	Consultation and Engagement.....	33
	High Path Estate - Engagement .....	36
9	Efforts to acquire by agreement and residents' offer .....	37
10	Human Rights Considerations .....	41
11	Public Sector Equality Duty.....	43
12	Council's Response to Objections to the Order .....	44
13	Details of Contacts for further information .....	65
14	List of Documents .....	66
	Glossary.....	70
	Appendix – Planning Permissions for the Estates.....	72

## 1 Introduction and background

- 1.1 This Statement of Case (the **Statement**) has been prepared on behalf of the London Borough of Merton (the **Council**) as acquiring authority pursuant to Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007 and in compliance with the Guidance on Compulsory Purchase and the Crichel Down Rules (the **Guidance**) (Document 57).
- 1.2 On 13 June 2022 the Council made the London Borough of Merton (High Path No 1) Compulsory Purchase Order 2022 (the **Order**) which was submitted along with supporting documents, (including the Council's Statement of Reasons (Document 3)) to the Secretary of State for Levelling Up, Housing and Communities (the **Secretary of State**) for consideration and confirmation. Authorisation to make the Order was given by the Council's Cabinet on 21 March 2022 (Document 11).
- 1.3 Objections to the Order were received. The Secretary of State by way of a letter dated 12 September 2023 has given notice of his intention to hold an inquiry into the objections raised.
- 1.4 The land included within the Order is referred to as the Order Land which is shown on the plan attached to the Order (the **Order Map**).
- 1.5 The Council made the Order pursuant to sections 226(1)(a) of the Town and Country Planning Act 1990 (the **1990 Act**), section 13 of the Local Government (Miscellaneous Provisions) Act 1976 (the **1976 Act**) and section 203 of the Housing and Planning Act 2016 (the **2016 Act**) (Documents 52, 54 and 55 respectively). The Council is the local planning authority and local highway authority for the Order Land.
- 1.6 If confirmed by the Secretary of State, the Order will enable the Council to acquire interests in and rights over the Order Land compulsorily in order to facilitate the regeneration and construction of the High Path Estate Phases 2 and 3<sup>1</sup>.
- 1.7 The High Path Estate regeneration forms part of the wider Estates Regeneration Programme (the **Scheme**) within the London Borough of Merton. The Scheme seeks to deliver the regeneration of three residential housing estates in the London Borough of Merton, those being the Ravensbury Estate, the High Path Estate and the Eastfields Estate (together referred to as the **Estates** for the purpose of this Statement).
- 1.8 In order to secure the delivery of the Scheme the Council intends to make a number of Compulsory Purchase Orders (CPOs) for the acquisition of third-party property and rights on the Estates. The CPOs will be phased to reflect

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<sup>1</sup> Phase 1 of the High Path regeneration has already been delivered and is complete – see Section 1.20 for further details .

the Developer's proposed construction programme for the Scheme from 2022 – 2036. As well as the Order, two further CPOs for the Scheme have been made to date: the London Borough of Merton (Eastfields No 1) CPO 2022 concerning Phase 1 of the Eastfields Estate and the London Borough of Merton (Ravensbury No 1) CPO 2022 concerning Phases 2 to 4 of the Ravensbury Estate.

- 1.9 This Statement sets out the particulars of the Council's case for the making of the Order. It seeks to supplement the Council's Statement of Reasons, which should be read in conjunction with this Statement. The document sets out the case as to why the Council considers that the powers of compulsory purchase contained in the Order are necessary, and why there is a compelling case in the public interest that the Order be confirmed by the Secretary of State.
- 1.10 All documents referred to in this Statement are listed in the table in Section 14 below.

### **The Developer**

- 1.11 The Scheme will be delivered and financed by Clarion Housing Group (the **Developer**). Although the term 'Developer' is used at all times in this Statement of Case, many of the actions attributed to Clarion / the Developer will in practice have been undertaken by former manifestations of the organisation which is now known as Clarion, in particular Merton Priory Homes or Circle Housing Merton Priory.
- 1.12 Merton Priory Homes (also known as Circle Housing Merton Priory) was formed in 2010, which became a subsidiary within the Circle Housing Group. In November 2016, the Circle Housing Group (the parent company of Merton Priory Homes) merged with the Affinity Sutton Group to form a new parent company, Clarion Housing Group Ltd (this is a charitable housing association). Clarion Housing Group is comprised of various companies, which together form the largest housing group in the country, owning and managing over 125,000 homes.

### **Evolution of the Scheme**

- 1.13 Pursuant to an agreement dated 22 March 2010, the Council's social housing stock - which included properties within the Estates - was transferred to the Developer (the **Stock Transfer Agreement**). The Stock Transfer Agreement included a legal obligation requiring the Developer to undertake a programme of property improvements to bring the transferred stock in line with the requirements of the Government's Decent Homes Standard (the **Decent Homes Programme**) (Document 51).

- 1.14 Whilst considering the Decent Homes Programme, stock condition surveys procured by the Developer generated concerns that refurbishment was not a viable option but rather that it might be more beneficial and sustainable to completely replace those homes in the poorest condition.
- 1.15 In 2013, the Developer began considering regeneration-based alternatives for the housing stock on the Estates and since 2014, the Council has been exploring the regeneration of the Estates in consultation with residents, the Mayor of London's office, Transport for London, the Developer and other interested parties. The Developer has also been actively consulting and engaging with residents and homeowners on the Estates about the possibility of regeneration.
- 1.16 As well as active engagement, the Council has analysed the evidence provided by the Developer to support the case for regeneration. The Council and the Developer signed the 10 Commitments (Document 28) in September 2014 which have provided the backbone of the project to ensure that residents remain at the heart of decision-making.
- 1.17 In order to take the Scheme forward, the Council took the in-principle decision to explore the production of an 'Estates Local Plan'. In January 2016, the Council resolved to consult on the draft Estates Local Plan and also resolved to finalise a revised delivery timetable for the implementation of the Decent Homes Programme on the Estates with the Developer. The Council then undertook to prepare and consult on the Estates Local Plan to guide and support the regeneration of the Estates. The Estates Local Plan was formally adopted by the Council as part of the Development Plan in February 2018 (Document 48).

### **The Scheme**

- 1.18 The Scheme is an ambitious regeneration project that is supported by the Council. It represents a significant long-term investment which sees the existing residents being at the heart of the regeneration project. The Scheme will provide sustainable communities through the creation of new, well-designed high-quality neighbourhoods aimed at fundamentally improving the quality of life and life-chances for existing and future generations living in the Estates. The Council believes that the Scheme will provide significant social, economic and environmental improvements for existing residents.
- 1.19 The Scheme envisages the provision of up to 3,272 new homes (subject to the grant of a new planning application for High Path Phases 4-7B (please see Section 5 below)). The breakdown of these new homes is as follows:
- High Path Phase 1 (Kickstart): 134 homes;

- High Path Phases 2 –7: up to 2,138 homes;
- Ravensbury Phase 1 (Kickstart) 21 homes;
- Ravensbury Phases 2-4: up to 179 homes; and
- Eastfields Phases 1-4 up to 800 homes.

- 1.20 The High Path Estate benefits from a number of planning permissions, which are subject to section 106 planning obligations. This includes full planning permission for Phase 1 of the High Path Estate regeneration (ref 16/P3738) (the **Phase 1 Permission**) which has now been completed. Outline planning permission for Phases 2-7 (ref: 17/P1727) (the **Extant OPA**) and associated reserved matters approvals have also been granted for Phase 2. The Extant OPA has been subject to a number of variations (see Section 5 and the Appendix of this Statement for further details of the planning permissions relating to the High Path Estate).
- 1.21 As is also described in Section 5 and the Appendix to this Statement, a new application for outline planning permission has been submitted for Phases 4-7B (the **Proposed OPA**). At the Council's Planning Committee on 20 July 2023, the Committee resolved to grant the Proposed OPA. The Proposed OPA is now progressing through GLA Stage 2.
- 1.22 The Developer has also submitted reserved matters applications for Phases 3B and 3C (to include demolition of the buildings in Phase 4) which will require amendment once the Government confirms its proposals for the fire safety (second staircase) regulations.
- 1.23 Eastfields Estate and Ravensbury Estate also benefit from planning permissions for the Scheme, please see the Appendix for further details.
- 1.24 An agreement dated 26 April 2019 pursuant to section 106 of the 1990 Act secured various obligations in relation to Phases 2-7 of the High Path Estate (in respect of the Extant OPA) as well as in relation to the outline planning permission for Eastfields and Ravensbury Estates (Document 27) (the **Extant OPA S106 Agreement**). All three estates are linked in viability terms.
- 1.25 Throughout the Scheme there will be no loss of social/affordable housing, indeed, the Scheme will result in an additional 227 affordable homes within the High Path Estate (to be split at 60% Social Rent and 40% Shared Ownership) as the Developer addresses historic overcrowding in the three Estates, when rehousing the existing social/affordable tenants.
- 1.26 All of the Developer's existing social/affordable tenure tenants and resident homeowners have been given the opportunity to stay in new homes in the newly regenerated Estates. This is the case on all three Estates. This 'offer' is

consistent with the Developer's Residents' Offer published in May 2015 and updated in 2018 and again in 2023, a copy of which is attached at Document 29.

### **The Order**

- 1.27 The Order (Document 1) forms part of the 2022 CPOs in conjunction with the Ravensbury Order and Eastfields Order and which are the first CPOs being brought forward in respect of the Scheme. The Order relates to land comprising part of the High Path Estate and includes the land shown shaded pink, edged red or shaded blue on the Order Map (the **Order Land**) (Document 2). The Order Land comprises Phases 2 and 3 of the High Path Estate and includes all of the new homes being proposed as part of those phases, together with the replacement ball-court and recreational facility agreement required pursuant to the Extant OPA S106 Agreement.
- 1.28 In addition to the land interests that need to be acquired within the relevant phases, there are properties within the wider High Path Estate and around the perimeter of the High Path Estate which may have rights over the Order Land which may need to be acquired and/or over which new rights are required to undertake the development.
- 1.29 The Council supports the Order; the acquisition of the Order Land will facilitate delivery of new and significantly improved housing for existing tenants and homeowners on part of the High Path Estate, and will also enable regeneration of other parts of the High Path Estate to come forward, since the homes provided on the Order Land will enable the relocation of existing residents in subsequent phases of the High Path Estate regeneration.
- 1.30 Phase 2 of the High Path regeneration (of which the Order Land forms part), will facilitate the delivery of 113 new homes on the High Path Estate of which 95 (84%) will be affordable rented/social rented and 18 new homes will be private homes to replace existing private homes for resident homeowners. All of these new homes will be delivered on the Order Land.
- 1.31 Phase 3 the High Path regeneration (of which the Order Land also forms part), will facilitate delivery of 369 new market homes on the High Path Estate, the proceeds from which shall be used to help support the financial viability of Phase 2 of the High Path Estate regeneration and also Eastfields Phase 1 and Ravensbury Phases 2 to 4 which will be delivered as part of the next phase of redevelopment across the Estates.
- 1.32 When the Proposed OPA is granted, the development of the High Path Estate will comprise up to 2,272 dwellings and up to 7,200sq m of non-residential floorspace. The breakdown is as follows:



- 1.32.1 Phase 1 – 134 dwellings;
  - 1.32.2 Phase 2 – 113 dwellings and 187 sqm of non-residential floorspace as approved pursuant to the Phase 2 RMA;
  - 1.32.3 Phase 3 – 374 dwellings and 1,811 sqm of non-residential floorspace (to be approved pursuant to the pending reserved matters application); and
  - 1.32.4 Phases 4-7 – up to 1,651 dwellings and 5,000 sqm of non-residential floorspace pursuant to the Application.
- 1.33 There are currently two ball courts existing on the High Path Estate; one is located within Phase 3 and the other within Phase 5. The Extant OPA S106 Agreement for the outline planning permission, requires the provision of new permanent or temporary facilities prior to closure of these facilities. As noted above, Phase 3 will also comprise the replacement ball court and a recreational facility on land to the west of Pincott Road pursuant to the Extant OPA S106 Agreement.
- 1.34 On 15 January 2018, the Council's Cabinet resolved 'in-principle' for the Council to use its compulsory purchase powers, if necessary, to bring forward the Scheme (Document 7). This resolution was ratified by Full Council on 7 February 2018. Full Council subsequently acknowledged on 2 February 2022 that, in line with the statutory framework governing the making of CPOs under S.226 of the 1990 Act and the Council's constitution, Full Council's further ratification was not required in order to make future orders to carry out the Scheme. Cabinet then subsequently passed a resolution on 21 March 2022 for the Council to make the Order as described in this Statement in respect of the Order Land specifically (Document 11).

## **2 High Path Estate – Existing and Proposed Regeneration**

### **The Estate – Existing**

- 2.1 The High Path Estate covers a total area of 6.91 hectares and is located in the Abbey ward. The perimeter of the High Path Estate is bound by Merton High Street (A238) to the north, Abbey Road to the east, High Path to the south and Morden Road (A219) to the west. The High Path Estate is in close proximity to the A24 Merantun Way, which forms part of the Transport for London Road Network (TLRN) and is a 'Red Route'. Access to/from the site via Merantun Way is via High Path to the south.
- 2.2 The Estate is located within an area characterised by a mix of uses, with Merton High Street predominantly formed of commercial/retail ground floor

uses with residential above to the north, and terraced housing to the north and east.

- 2.3 To the south of the Estate on the opposite side of High Path is Merton Abbey Primary School and Harris Academy Wimbledon; further south is Merton Industrial Park with warehouse and industrial building's predominantly two storeys in height and to the east of the site is a Sainsbury's superstore and retail park.
- 2.4 No part of the High Path Estate comprises a Conservation Area although it falls within an Archaeological Priority Zone and the Wandle Valley Regional Park 400m Buffer. There are no statutory or locally listed buildings falling within the High Path Estate, although there are listed buildings within the vicinity.
- 2.5 Prior to Kick Start Phase 1, the High Path Estate, as a whole, consisted of 608 residential units with a mix of tenures including approximately 248 private ownership units and 360 social rented units. The High Path Estate was constructed between 1950s and 1980s with no defined urban strategy and using different construction methods. The High Path Estate is in residential use with the exception of a local convenience store on the corner of Pincott Road and Nelson Grove Road, the St John's the Divine Church Hall along High Path, an accountancy office and space used by the South Wimbledon Community Association.
- 2.6 The typologies of housing are varied with a mix of tower blocks (up to 12 storeys in height), maisonettes, terraced houses and other blocks of flats predominantly all constructed of brick and concrete. No significant structural alterations have been carried since the original construction of the properties on the Estate. Decorative and maintenance works have been carried out. All properties owned by the Developer have double glazed windows and some have had replacement kitchens and bathrooms. Maintenance works have also been carried out to ensure that properties on the Estate meet fire and health and safety regulations, such works have included replacement of central heating systems, replacement of communal fire doors and front doors to individual properties.
- 2.7 There are nine vehicular access points to the High Path Estate from all surrounding roads on the perimeter of the Estate (one on Merton High Street, one on Morden Road (A219), five on High Path and two on Abbey Road) and more pedestrian access routes from these roads. There are also a number of existing internal roads including Hayward Close and Pincott Road which run in parallel to one another from Merton High Street to the north and High Path to the South (although there is no vehicular access on the junction of Hayward Close and Merton High Street).

- 2.8 The High Path Estate is located adjacent to South Wimbledon London Underground station, a 650m walk from Colliers Wood London Underground Station and a 1.4km walk from Wimbledon station. These stations are served by the Northern and District Line respectively. The nearest mainline rail stations are Wimbledon Station and Haydons Road, which are both located approximately 1.4km from the High Path Estate. The Public Transport Accessibility Level (PTAL) rating varies across the Estate between “4” and “6a” indicating between a ‘Good’ and ‘Excellent’ level of public transport accessibility.

### **Proposed Regeneration**

- 2.9 The redevelopment of the High Path Estate will come forward in seven phases. The Phases have been designed to ensure minimum disruption to existing residents. The construction phasing proposed is currently as follows:

2.9.1	Phase 1	2018 - 2021/2022
2.9.2	Phase 2	2025 - 2027
2.9.3	Phase 3	2027 – 2029
2.9.4	Phase 4	2028 – 2031
2.9.5	Phase 5	2032 - 2035
2.9.6	Phase 6	2033 – 2036
2.9.7	Phase 7	2033 - 2036

- 2.10 An indicative Phasing Plan in respect of the High Path Estate is appended to this Statement (Document 4).
- 2.11 Redevelopment of the High Path Estate has already commenced pursuant to the Phase 1 Permission which provided 134 new residential units (80 affordable) with associated vehicular access, parking, cycle and refuse storage and landscaping. The objective of Phase 1 is to provide housing for residents from the existing High Path Estate as later phases of the Estate’s redevelopment take place ensuring that, so far as possible, no resident has to move twice.
- 2.12 All of the 608 dwellings existing prior to the commencement of the Scheme on the High Path Estate are proposed to be demolished in due course, with 78 units proposed to be demolished as part of Phase 2 and 88 units as part of Phase 3.
- 2.13 The core elements of the High Path Estate’s regeneration are as follows:

- 2.13.1 Demolition of all buildings within the red line boundary of the Extant OPA (as amended), which equates to the demolition of 608 existing homes (360 affordable and 248 private homes);
- 2.13.2 Construction of 134 new homes in Phase 1, 81 of which are required by the relevant section 106 agreement to be affordable. Phase 1 has been completed;
- 2.13.3 Construction of a 5 to 10 storey building with 187 sqm of commercial floorspace (use classes A1, A2, A3, B1 or D1) with 113 residential dwellings and construction of 8 three storey houses in Phases 2 all of which will be on the Order Land; 95 of the dwellings will be delivered as affordable housing pursuant to the relevant reserved matters consent;
- 2.13.4 In addition to Phase 1 and Phase 2, 182 affordable units are planned to be delivered in phases 3-7 in accordance with the Extant OPA S106 Agreement. Please note that if the Proposed OPA is granted and implemented, this will secure a further 227 affordable units which would result in 409 affordable units are to be provided across Phases 4 to 7B of the High Path Estate regeneration;
- 2.13.5 A new neighbourhood park of approximately 7,500 sqm will be provided for the community for public use along with other amenity space and a children's play area of approximately 1,750 sqm, with a range of different equipment. The neighbourhood park will be centrally located and will link Merton High Street to High Path Estate and will also be framed by mansion blocks to provide a suitable level of enclosure to it. There is also the potential for the inclusion of non-residential floorspace along the neighbourhood park. The park will also include a new cycle route link along its western border. The intention is for the park to become a new urban hub and focal point for the High Path Estate and its surroundings, significantly enhancing the quality of public open space on the estate. It is therefore an integral part of the regeneration of High Path Estate;
- 2.13.6 Provision of up to 7,200 sqm of commercial and community floorspace (including replacement and new floorspace) across the High Path Estate;
- 2.13.7 The creation of new public open space and communal amenity spaces including children's play space and replacement of existing recreational facilities;
- 2.13.8 The creation of new public realm space along with landscaping works and lighting;

- 2.13.9 Car parking spaces including within ground level podiums;
- 2.13.10 Cycle parking spaces for all land uses, including visitor cycle parking;  
and
- 2.13.11 Associated highways and utilities works.

### **3 Land and Rights to be acquired**

- 3.1 Interests identified in the Schedule to the Order and the Order Map remain outstanding as at the date of this Statement of Case, and need to be acquired by the Council to enable the delivery of Phase 2 and Phase 3 of the High Path Estate regeneration. Full details of the owners and their outstanding interests, together with the new rights that need to be acquired, are contained in the Schedule and shown on the Order Map (Documents 1 and 2). The Developer has successfully negotiated the purchase of all other interests in the Order Land to facilitate the delivery of Phase 2 and Phase 3. Assuming planning permission is granted for the Proposed OPA, the Developer will be seeking further CPOs for Phases 4-7B, however they do not form part of the Order due to construction of these Phases being more than five years away owing to the need to move sequentially through High Path Estate.

#### **Land and Rights to be acquired**

- 3.2 The land proposed to be acquired is shown edged black and coloured pink on the Order Map.
- 3.3 Existing rights over the land edged red on the Order Map are also proposed to be purchased compulsorily. Details of these interests are contained in Table 1 of the Schedule to the Order. For the avoidance of doubt, it should be noted that in respect of those properties listed within the Schedule where only a potential right is to be acquired over the Order Land, it is not proposed to acquire the freehold or leasehold titles of those properties.
- 3.4 The land to be acquired edged black and shaded pink includes small areas of unregistered land. The Council has been unable to trace the owners despite making diligent enquiries. None of the unregistered land is occupied by any residents or businesses.
- 3.5 The land over which new rights are sought as part of the regeneration of the High Path Estate are shown edged black and coloured blue on the Order Map (the **Blue Land**). Details of the interests in the Blue Land to be compulsory acquired are contained in Table 2 of the Schedule to the Order.
- 3.6 The rights in respect of the Blue Land are proposed to be acquired to allow cranes to over sail that land during the construction process. The affected properties in respect of any new rights would not need to be redeveloped

pursuant to the Order and there was no need to acquire the freehold or leasehold titles of the Blue Land. As with the property acquisitions, negotiations to secure these rights by private treaty agreement are ongoing and will continue in parallel with the formal CPO process. However, since making the Order the Council has agreed in-principle (subject to formal agreement) with London Underground Limited that it will not implement the Order to acquire oversailing rights over any part of the London Underground Limited's operational land and apparatus. Please see paragraph 12.3 of this Statement for further details.

### **The Order Map**

- 3.7 The Order Map identifies the Order Land, which includes the land shaded pink, edged in red and the Blue Land. Individual plot boundaries and numbers on the Order Map correspond with the Schedule in respect of the land shaded pink and the Blue Land. In addition, the Schedule lists other parties who may have a qualifying interest in the Order Land where known after reasonable enquiry. The Schedule has been based on information gathered through site inspections and enquiries, responses to notices issued under section 16 of the 1976 Act and inspection of Land Registry documents. There has been an extensive enquiry to identify land interests, but it is recognised that currently unknown interests may emerge in the course of proceeding with the compulsory purchase process.

### **Land and Rights no longer required**

- 3.8 Subsequent to the Order being made, following comprehensive due diligence and investigations, the Developer has identified that a number of rights proposed to be acquired within the Order which are no longer required. This further work has included detailed analysis of three-dimensional computerised modelling to determine the impact of the proposed development on adjoining properties, as well as kerbside inspections and other investigations. Following this work, the Council and the Developer now consider that it is no longer necessary to compulsorily acquire some rights of light interests listed within the Schedule of the Order.
- 3.9 The Secretary of State / Inspector has the power under section 13A(5) of the Acquisition of Land Act 1981 to confirm the High Path CPO with modifications. A letter was duly sent to the Planning Inspectorate on 6 October 2023 containing a list of those interests which can be removed from the Order (Document 30).

## **4 The Purpose for which Land is to be Acquired**

- 4.1 There is a real and present need for new housing, both in London generally and also specifically in the London Borough of Merton. Indeed, the Estates

Local Plan expressly recognises the position in the following terms (at Paragraph 1.20):

*‘There is a **substantial demand** for new homes in London and the south east. Increasing the supply of new homes to meet housing needs is a longstanding and well documented policy driver for successive governments’* (emphasis added).

- 4.2 It is against this backdrop that the Council resolved to pursue the Scheme, with the intention being that the Estates Local Plan ‘will help deliver new homes for existing and future residents, helping Merton to meet its share of London’s new homes of all types, sizes and tenures’ (Paragraph 1.20).
- 4.3 In this regard the London Plan (Document 45) identifies a level of housing need of 52,300 new homes per annum across London, with a need of 918 homes per annum within Merton.
- 4.4 As such, it is evident that the need for more and better housing in Merton is pressing.
- 4.5 Both the Scheme more generally, and the regeneration of the High Path Estate specifically, will increase housing provision and so materially contribute towards meeting this housing need.

#### **Condition of Estates**

- 4.6 When the Developer acquired responsibility for all of the Council's housing stock, they committed to improving the accommodation as well as the quality of life for residents. However, as explained, in working towards this goal, stock condition surveys undertaken identified that significant refurbishment and maintenance was required. The Developer therefore began a comprehensive review across all the various housing estates for which it was responsible which included the three Estates, to determine whether refurbishment was the best solution or whether it might be more beneficial and sustainable to replace homes in the poorest condition with new properties.
- 4.7 The Developer undertook technical surveys and financial planning work, which concluded that while refurbishment was the preferred option for some of the housing estates, other estates (including High Path) required both significant refurbishment, significant ongoing maintenance work and financial investment to raise – and keep – the housing stock to the required standard. Whilst incremental refurbishment works would improve the internal housing quality in the short to medium term, comprehensive regeneration and redevelopment was determined to be the most effective way of delivering long term sustainable Decent Homes which would deal with the high levels of overcrowding and provide quality green spaces and public realm.

- 4.8 As already noted, on 7 February 2018, the Council adopted the Estates Local Plan, which now forms part of the Council's Local Plan alongside its Core Planning Strategy and Sites and Policies Plan. The Estates Local Plan was adopted with the intention that it would guide redevelopment proposals for the Estates that come forward in the next 10-15 years, in order to ensure that development proposals create well designed, high quality neighbourhoods aimed at fundamentally improving the quality of life for existing and future generations living in the area. At the heart of the Estates Local Plan is an acknowledgment that the existing housing stock on the Estates is largely sub-standard and that regeneration is the most viable option for delivering housing to Decent Homes Standards.

### **Case for regeneration at the High Path Estate**

- 4.9 The High Path Estate was constructed between 1950s and 1980s and comprised 608 residential dwellings. The life span of much of the existing building stock on the High Path Estate is limited. Continual repair and upgrade work is required to meet habitable standards of living. The poor condition of the buildings exacerbate the already challenging housing management issues including significant overcrowding, damp and mould in some typologies and limited access to private amenity and green space.
- 4.10 A 2015 Housing Needs Study (Document 31) found that 357 households within the High Path Estate lived within unsuitable housing, primarily because of overcrowding. There were a number of overcrowded households in Phases 2 and 3 at High Path. In Phase 2 thirteen households were overcrowded and need one additional bedroom, two further households need two additional bedrooms. These housing needs have been taken into account in planning the replacement homes and those households will move into a new home that is the right size for them. In Phase 3 six households will move into a new home that has one more bedroom. There are four households who will be rehoused in Phase 3 who will be rehoused in two separate new homes thus allowing the Developer to deal with 'hidden households' and rehouse adult non-dependants separately;
- 4.10.1 The affordable housing mix and tenures on the Estate also do not meet housing needs, with 1 and 2 bed units comprising 78.3% of the affordable dwellings and there being no intermediate tenures;
- 4.10.2 Property Performance Services reported within their Dwelling Condition Assessment (November 2014) (Document 32) that, from their experience of similar buildings, it is likely that some asbestos bearing products may have been used in the construction of the some of the properties;



- 4.10.3 An accessibility audit and appraisal in October 2014 (Document 33), evaluated how well the existing properties on the Estate performed in terms of access and ease of use by a wide range of potential users, in particular but not limited to disabled people. Whilst parking provision was generally considered adequate, the design of the car parking and approaches did not meet the required level, with uneven access and a lack of basic features such as handrails and tactile paving. Many main entrances to blocks have heavy doors that lack assistance for opening and closing. Level access is only available on the tower blocks and to one single bungalow. In addition, only three of the tall tower blocks have lifts, and the low rise brick buildings have very small kitchens and bathrooms, poor circulation spaces and are not accessible to those with mobility problems – meaning they cannot achieve lifetime homes standards;
- 4.10.4 The majority of existing dwellings are below the Nationally Described Space Standards for new dwellings; and
- 4.10.5 Existing amenity space also falls short of policy. High Path has a large amount of green space but little of it is used or useable by residents. It consists largely of fenced grassed areas, mowing strips and some poor quality shrub beds adjacent to the blocks. Much of the open space is used as hardstanding and parking space.
- 4.11 A 2014 urban design review study (Document 34) noted issues relating to the layout of the High Path Estate. The study found that the geometry of the layout was prejudicial to pedestrian movement with maze-like routes with few good connections to the wider strategic network. The existing layout of the Estate was also found to lack consistency and does not exhibit a similar form to surrounding development. Whilst the Estate contains relatively high levels of open space, the lack of distinction between public and private space is unclear resulting in an inefficient use of land. The vast majority of properties on the Estate also have passive or dead frontages, which has a negative impact on safety and the social environment of the Estate and the quality of the external environment.
- 4.12 Specific housing stock issues include the following:
  - 4.12.1 A report prepared by Ellis and Moore Consulting Engineers Ltd (November 2010) (Document 35) stated that whilst the majority of properties were in reasonable structural condition, there were still defects which required remedying, including: repairs to the concrete upstanding and render on tower blocks (including March Court); repairs on mansion blocks (including Gilbert and Becket Closes) to repair cracking and concrete edge beams and deck access slabs; repairs to concrete edge beams and lintels on blocks constructed in

the 1960s; repairs and replacement of brickwork, including repointing and repair and replacements of beams, slabs and finishes of the blocks constructed in the 1970s; repointing of brickworks on blocks constructed in the 1980s; and, internally, the survey highlighted problems in a number of properties relating to damp, condensation, and rust;

4.12.2 Baily Garner LLP conducted internal dwelling conditions surveys in late 2015 (Document 36). Generally it was identified that less than 10% of the kitchens, bathrooms, and heating installations were old and in poor condition; 23% of the electrical installations were identified as old and in poor condition. The general observations found damp and mould issues were present across many blocks, which indicates that units are potentially affected by inherent 'cold bridging' issues related to the fabric of the buildings. Residents also noted issues relating to the sound performance of the buildings, both from external sources and transfer between properties.

4.12.3 The Baily Garner LLP condition surveys also identified:

- (a) Roofs - The asphalt flat roof on Marsh Court is approaching the end of its life and will require replacement in the short to medium term. The thermal performance of this roof is considered to be low. The majority of the pitched roofs, based on typical lifespans, will need to be replaced in the medium term;
- (b) External doors and windows - Whilst the majority of properties on the Estate appear to have received major project works to replace windows at some point in the last 10 years, it is likely that they will require a major overhaul / replacement in the next 15 to 20 years. UPVC doors and screens are likely to need replacement in the next 10 to 15 years;
- (c) Internal common areas - Regular redecoration is required on a circa 5 to 7 year cycle;
- (d) Kitchens - Significant variation across the Estate; and
- (e) Bathrooms - Again, quality and condition of bathrooms and their associated fixtures and fittings varies significantly across the Estate.

### **Alternatives Considered**

- 4.13 In deciding on a full regeneration of the High Path Estate, two alternative options were considered:
- 4.13.1 Option 1 – Refurbishment to Decent Homes (Merton Standard) which would comprise predominantly internal works, such as new kitchens, bathrooms, plumbing, electrics and insulation to improve the quality of the existing accommodation; and
  - 4.13.2 Option 2 – Refurbishment to an Enhanced Standard which would comprise the refurbishment of all existing properties owned and managed by the Developer to a standard above Decent Homes. This would involve a programme of works both internal improvements (such as new kitchens and bathrooms) and external works (such as new building cladding and roofs to improve thermal performance).
- 4.14 No consideration was given to a "do nothing" approach.
- 4.15 Partial regeneration was not considered to be a reasonable alternative because:
- 4.15.1 as a result of construction of the estate over four decades, the arrangement of buildings makes any partial regeneration scheme proposing demolition of selected blocks very challenging logistically;
  - 4.15.2 the poor layout and urban design of the existing High Path Estate as identified could not be addressed through partial regeneration, which could not deliver a comprehensive well thought through high quality residential development that optimises the potential of the land within the Estate; and
  - 4.15.3 partial regeneration would create a fragmentation of the Estate in terms of design and would not realise the significant place making potential that exists with a comprehensive redevelopment of this significant site within the local area.
- 4.16 Neither Option 1 nor 2 were considered to be a reasonable alternative:
- 4.16.1 They would not deliver significant increases in the quality and quantity of residential accommodation, or diversification of the housing mix, type and size of dwelling, or improvements to the general environment of the High Path Estate in accordance with key policy objectives at national, regional and local levels;
  - 4.16.2 Neither option would include the creation of any new non-residential land uses such as the introduction of any community space, nor would they present any ability to alter the layout and urban design;

- 4.16.3 Neither option offers significant opportunities to improve the integration and connectivity of pedestrian routes to the wider area through good redesign of the internal spatial structure and the creation of stronger connections from the Estate;
- 4.16.4 There is limited or no potential for increasing the sustainability of the Estate through the introduction of sustainable drainage systems, green and brown roofs and ecological enhancements. Further, while Options 1 and 2 would both offer energy performance benefits, financial analysis demonstrates that the upgrades required would have significant payback periods, making these options less attractive; and
- 4.16.5 The jobs created by refurbishment of the High Path Estate, while having a positive impact on residents in the local area, predominantly in trades and services, would be of shorter duration than those created if the Estate is fully regenerated and so the benefits are much more significant and wide-ranging.
- 4.17 Therefore, the positive benefits do not outweigh the potential drawbacks of both options in the long term, particularly in comparison with a full regeneration of the High Path Estate.
- 4.18 Refurbishment was also discounted due to the significantly high cost, estimated to be over £99,662,006 as detailed in a Condition Survey Report & Life Cycle Cost Analysis June 2016 by Bailey Garner (Document 36). Whilst refurbishment would improve the quality of the existing stock, the longevity of the improvements would be limited before the condition began to decline again (so that significant further investment would be required). Refurbishment works alone offer very limited potential to optimise the housing potential of the High Path Estate as a whole.
- 4.19 The Developer has decided that full regeneration is the most cost effective way of delivering longer term sustainable Decent Homes through the provision of new, well designed, energy-efficient homes that will meet the needs of residents now and in the future.
- 4.20 An assessment carried out for the Developer by Savills dated October 2016 (Document 37) concluded that full regeneration of the High Path Estate was considered to be the most appropriate in terms of delivering key planning policy objectives at national, regional and local levels as it is the only option that is able to deliver significant increases in the quality and quantity of residential accommodation, as well as improvements to the general environment of the High Path Estate.

### **Improvements delivered by the High Path Estate Regeneration**

- 4.21 The High Path Estate regeneration is consistent with the Estates Local Plan. The Estates Local Plan sets out that regeneration will be expected to provide a range of choices and benefits including:
- 4.21.1 high quality well designed neighbourhoods;
  - 4.21.2 wider housing mix;
  - 4.21.3 private outdoor space for all residents;
  - 4.21.4 better quality green spaces and community facilities; and
  - 4.21.5 job creation opportunities.
- 4.22 The proposed redevelopment will also be an opportunity to provide much needed new homes by making more efficient use of brownfield land, improving the quantity, quality and mix of new homes on the High Path Estate.
- 4.23 The High Path regeneration:
- 4.23.1 optimises the housing potential of the High Path Estate and ensures that this large brownfield site is used effectively, delivering a net uplift of up to 1,664 (assuming the grant of the Proposed OPA (once the application has been updated as required to account for fire safety (second staircase) regulations)), or 1,096 if constructing the development pursuant to the Extant OPA) homes (and no not net loss of affordable housing), helping to meet the increased housing need in Merton, and London as a whole;
  - 4.23.2 has a high quality design, with the overall proposed scale, massing and design of the proposed development being fully supported by the Council's Urban Design team. The proposal was also presented to the 'Design Review Panel' in July 2016 and July 2017. A summary of the review revealed that the High Path Estate masterplan performed well against the 'Build For Life' 12 questions, which offers a tool kit aimed at assessing residential quality for new developments;
  - 4.23.3 includes improvements in terms of access that will ensure improvements to pedestrian routes across the High Path Estate and to nearby parks, bus and tram stops, with routes being linked into the proposed and existing street networks;
  - 4.23.4 provides a good level of community space and open space; and
  - 4.23.5 includes a Design Code (Document 38) which sets key principles and design parameters that inform and control the design for future reference in the Reserved Matters applications and the detailed

design of future phases. These include; landscape and public realm, built form, architectural quality and materials and building typologies.

- 4.24 The Estates Local Plan also makes it clear that any regeneration proposals that come forward should include a commitment to keeping the existing community together in each neighbourhood, as well as for existing residents to have a guaranteed right to return to a new home in their regenerated neighbourhood. The High Path Estate regeneration provides for precisely such a commitment.

## 5 **Planning Considerations**

- 5.1 In making the Order, the Council has had regard to its statutory development plan and other relevant local policy and guidance, together with other material considerations as required by section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the 1990 Act. A comprehensive appraisal of the Scheme and all relevant planning policy is set out in the Officer's report to the Council's Development and Planning Application Committee on 8 March 2018 (Document 9) and 15 June 2023 (Document 12).

### **Planning Permissions**

- 5.2 A detailed 'kickstart' permission granted on 5 October 2017 for High Path Phase 1 (ref 16/P3738) for 134 new homes (the **Phase 1 Permission**) (Document 13). An agreement dated 17 October 2017 pursuant to section 106 of the 1990 Act secured various obligations in relation to the Phase 1 Permission (Document 14). The Phase 1 Permission has been built out in full.
- 5.3 Outline planning permission granted on 29 April 2019 for High Path Phases 2-7 with reference 17/P1721) (Document 15) (subject to variations with references 21/P1932 granted to 19 July 2019 (Document 16), 21/P2806 granted on 21 January 2022 (Document 17) and 22/P1740 granted on 14 October 2022 (Document 18)). The current description of development reads:

"(with all matters reserved, except in relation to parameter plans) for the comprehensive phased regeneration of High Path Estate comprising demolition of all existing buildings and structures; providing up to 1570 residential units (C3 Use Class); provision of up to 9,900 sqm of commercial and community floorspace (including replacement and new floorspace, comprising: up to 2,700 sqm of Use Class A1 and/or A2, and/or A3 and/or A4 floorspace, up to 4,100 sqm of Use Class B1 (office) floorspace, up to 1,250 sqm of flexible work units (Use Class B1), up to 1,250 sqm of Use Class D1 (Community) floorspace; up to 600 sqm of Use Class D2 (Gym) floorspace); provision of new neighbourhood park and other communal amenity spaces, including children's play space; public realm, landscaping, lighting; cycle parking (including visitor

cycle parking) and car parking (including within ground level podiums), associated highways and utilities works".

- 5.4 As mentioned above the Extant OPA S106 Agreement secured various obligations in relation to the Extant OPA (Document 27). This agreement also secured planning obligations in relation to outline planning permissions granted in respect of the Eastfields and Ravensbury Estates and bound all three estates together in viability terms.
- 5.5 Reserved matters in relation to the Extant OPA have been granted as follows:
- 5.5.1 reference 19/P1852 for Phase 2 granted on 3 October 2019 for the construction of 113 homes and to which the Order relates (Document 19);
  - 5.5.2 reference 22/P0085 for Phase 2A granted on 31 March 2022 for the Nelson Grove Road Garages (Document 20). This permission has been built out; and
  - 5.5.3 reference 22/P2199 for Phase 3A granted on 12 December 2022 for the demolition of the existing houses at 50-60 Pincott Road and the provision of a multi-use games court including associated landscaping, lighting and highways work (Document 21).
- 5.6 Phase 2A is now complete and a Certificate of Lawfulness of Existing Development (ref 22/P1653) was granted by the Council on 13 August 2022 confirming the implementation of the Extant OPA (Document 22).
- 5.7 A reserved matters application for Phases 3B and 3C (which will include demolition of the buildings in Phase 4) was validated on 10 January 2023 and allocated reference number 22/P3688 for demolition and site clearance and the construction of buildings for residential dwellings (and associated communal open space and play space), non-residential floor space, an energy centre, public open space comprising a new public square, public realm and landscaping works, cycle and car parking spaces together with associated highways and utilities works including underground refuse stores. This reserved matters application will be updated following Government confirmation of the requirements of the fire safety (second staircase) regulations.
- 5.8 The Extant OPA is subject to a pending non-material amendment (ref 23/P0515) to allow for some conditions to be discharged in respect of individual plots, rather than on a phase wise basis.
- 5.9 A new outline planning application for Phases 4 to 7B was submitted and was validated on 18 January 2023 with reference number 22/P3686 for revised

proposals for part of the phased regeneration of the High Path Estate comprising demolition of all existing buildings and structures and the erection of buildings to deliver new homes, flexible non-residential floor space (including retail, leisure, business and community uses); provision of public open space (including remainder of neighbourhood park) and other communal amenity spaces including children's play space, public realm, landscaping, lighting, cycle parking and car parking together with associated highways and utilities works. The application relates to phases 4-7B (based on the illustrative phasing) (the **Proposed OPA**). On 15 June 2023, the Council's Development and Planning Applications Committee unanimously resolved to grant planning permission for the Proposed OPA subject to conditions and planning obligations being secured. The Proposed OPA is now going through GLA Stage 2 review. A variation of Extant OPA S106 Agreement is currently being negotiated by the Council and the Developer to bind the planning permission to be granted pursuant to the Proposed OPA.

- 5.10 Given that outline planning permission has been granted for the Scheme, and that reserved matters have also been approved for the development that underpins the Order on part of the Order Land in particular, the following paragraphs do not address planning issues at length, but instead summarise briefly the key planning policy objectives.

### **Estates Local Plan**

- 5.11 The Estates Local Plan forms part of the Council's Local Plan and sits alongside its Core Planning Strategy, Sites and Policies Plan and the South London Waste Plan.
- 5.12 The Estates Local Plan primarily guides how new homes will be delivered via a coordinated strategy considering the social, economic and environmental opportunities and provides the framework for sustainable development of these areas.
- 5.13 The Estates Local Plan sets out the overarching vision that underpins the whole Estates regeneration.
- 5.14 The Estates Local Plan also sets out an overarching "Case for regeneration" of the Estates, which makes it clear that the existing housing stock faces a multitude of shortcomings.
- 5.15 The Estates Local Plan goes on to identify a vision for each Estate and in particular with reference to the High Path Estate (Policy OEP1 (b) (ii) page 28) states:

*High Path will be a New London Vernacular The creation of a new neighbourhood with traditional streets and improved links to its surroundings,*



*that supports the existing local economy while drawing on the surrounding area's diverse heritage and strong sense of community. Buildings will be of a high quality internally and externally, have a consistency in design with a strongly urban form and character, optimising the most efficient use of land that makes the most of the excellent public transport services, and has access to quality amenity space.*

### **National Planning Policy Framework (NPPF)**

- 5.16 The revised NPPF was published in September 2023 (Document 44). As national policy, the document aims for sustainable development to strengthen and support the economy, communities and the environment (paragraphs 7 and 8).
- 5.17 Paragraph 8 of the NPPF defines the three over-arching objectives of the planning system to deliver sustainable development:
- 5.17.1 Economic – helping to build a strong economy by ensuring that enough of the right type of land is available in the right places;
  - 5.17.2 Social – supporting communities by ensuring that a sufficient number and range of homes can be provided and fostering a well-designed and safe built environment; and
  - 5.17.3 Environmental – protecting and enhancing the environment by making effective use of land, helping to improve biodiversity, using natural resources prudently and minimising waste and pollution.
- 5.18 The Scheme is consistent with sustainable development principles of the NPPF.

### **London Plan**

- 5.19 The Mayor of London's new London Plan (Document 45) was formally adopted in March 2021. It provides a strategic spatial strategy within Greater London and forms part of the Council's development plan. The London Plan sets out a number of objectives:
- 5.19.1 building strong and inclusive communities;
  - 5.19.2 making the best use of land;
  - 5.19.3 creating a healthy city;
  - 5.19.4 delivering the homes Londoners need;
  - 5.19.5 growing a good economy; and

5.19.6 increasing efficiency and resilience.

- 5.20 The Scheme will play a key role in achieving the objectives under the London Plan.

### **Core Planning Strategy**

- 5.21 The Core Planning Strategy (Document 46) forms part of the Council's Local Plan and sets out the spatial strategy for the borough and the key elements of the planning framework.

- 5.22 Strategic Objective 3 of the Core Planning Strategy is:

*"To provide new homes and infrastructure within Merton's town centres and residential areas, through physical regeneration and effective use of space. This will be achieved by a range of actions including through the delivery of higher density new homes that respect and enhance the local character of the area."*

- 5.23 The Scheme is not only consistent with Strategic Objective 3 but it is also supported by key Core Planning Strategy policies such as CS9 (Housing Provision), CS8 (Housing Choice) and DMH2 (Housing Mix).

- 5.24 Also of relevance to the Scheme is the Council's draft Local Plan which was submitted to the Secretary of State on 2 December 2021 (Document 49). The Stage 2 Examination has taken place. As of August 2023, the planning inspectors are considering revisions to the draft Local Plan made during the course of the examination alongside additional clarification and information that they requested. The next update should be available by November 2023.

- 5.25 The key strategic housing policies which support the Scheme in the draft Local Plan include H11.1 (Housing Choice) and H11.2 (Housing Provision). Once adopted, these strategic policies will replace the Council's Core Planning Strategy. The draft Local Plan will not supersede any policies in the Estates Local Plan.

### **Other Relevant Policy and Guidance**

- 5.26 The Mayor of London's Housing Supplementary Planning Guidance (March 2016, updated August 2017) (Document 50) includes the guidance relevant to estate regeneration. The guidance states the overarching objectives for any estate regeneration scheme will usually be to:

5.26.1 deliver safe and better quality homes for local people;

5.26.2 increase the overall supply of new and affordable homes; and

- 5.26.3 improve the quality of the local environment through a better public realm and provision of social infrastructure (e.g. schools, parks, or community centres).
- 5.27 The Scheme and the High Path Estate regeneration comply with these objectives.

### **Conclusions**

- 5.28 The Scheme, the proposed regeneration of the High Path Estate, and the regeneration of the Order Land (part of Phase 2 and Phase 3 of the High Path Estate) in particular benefit from strong policy support at national, regional and local level. The development plan and other relevant local policy and guidance all support the High Path Estate regeneration as proposed and the Council is satisfied there is no viable alternative to deliver its benefits.

## **6 The Council's Power to Acquire Land Compulsorily**

- 6.1 Section 226 of the 1990 Act (Document 52) confers power on a local authority to acquire land compulsorily for development and other planning purposes.
- 6.2 Section 226(1)(a) of the 1990 Act allows a local authority to acquire compulsorily any land within its area if the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to that land.
- 6.3 The power to acquire land compulsorily conferred by section 226(1)(a) of the 1990 Act is subject to subsection (1A), which provides that the acquiring authority must not exercise the power unless it thinks that the proposed development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objectives:
  - 6.3.1 the promotion or improvement of the economic well-being of its area;
  - 6.3.2 the promotion or improvement of the social well-being of its area;
  - 6.3.3 the promotion or improvement of the environmental well-being of its area.
- 6.4 The CPO Guidance states that a compulsory purchase order should only be made where there is a compelling case in the public interest.
- 6.5 The CPO Guidance provides recommendations to acquiring authorities on the use of compulsory purchase powers and the Council has taken full account of this guidance in making this Order.

## 7 Justification for use of Compulsory Purchase Powers

- 7.1 The purpose of the Order is to secure the acquisition of all relevant interests in the Order Land to facilitate the vital redevelopment of the High Path Estate.
- 7.2 If the relevant interests are not able to be acquired the redevelopment of the Phase 2 and Phase 3 elements of the Scheme would be severely compromised as all of the units to be acquired lie within the main redevelopment area of these parts of the High Path Estate. Seeking to construct new development around these few outstanding interests would not only compromise the construction process but it would also compromise the Council's aims to deliver the wider regeneration benefits of the comprehensive redevelopment of the Estate. It would severely impact on the place-making benefits, the wider social benefits, the delivery of affordable housing and the delivery of higher quality homes.
- 7.3 The Council maintains that there is a compelling case in the public interest for the making of the Order and that an appropriate balance has been struck between public and private interests in that the development will make a positive contribution to the promotion or achievement of the economic, social and environmental well-being of its area. For those private interests that will be the subject of the CPO, the Council is satisfied that the Residents' Offer and the Developer's 10 Commitments adequately addresses the loss of those interests.
- 7.4 The overarching consideration for the Secretary of State in deciding whether the Order should be confirmed is set out in paragraph 12 of the CPO Guidance:
- 7.4.1 *"A compulsory purchase order should only be made where there is a compelling case in the public interest.*
- 7.4.2 *An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention."*
- 7.5 In the context of that overarching consideration, having regard to Paragraph 106 of the CPO Guidance, the following issues should be considered:
- 7.5.1 whether the purpose for which the land is being acquired fits with the adopted planning framework for the area;

- 7.5.2 the extent to which the proposed redevelopment of the High Path Estate would contribute to the achievement of the promotion and/or improvement of the economic, and/or social, and/or environmental well-being of the Council's area;
- 7.5.3 the potential financial viability of the proposal to redevelop the High Path Estate, general funding intentions and the timing of available funding;
- 7.5.4 impediments to implementation of the proposed regeneration and whether that regeneration has a reasonable prospect of going ahead; and
- 7.5.5 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.

7.6 The issues summarised above are addressed below.

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

- 7.7 The Order will help deliver the Council's vision for the regeneration of the High Path Estate. That regeneration is supported in a variety of policy documents, namely the London Plan, the Estates Local Plan, the Core Planning Strategy, and the National Planning Policy Framework, as well as relevant guidance documents. The planning framework is set out in more detail in Section 5 of this Statement.
- 7.8 Once adopted, the regeneration of the High Path Estate will also be supported by the Council's draft Local Plan which was submitted to the Secretary of State in December 2021 and is currently at Stage 2 examination.
- 7.9 The Council is therefore satisfied that the promotion of the Order is in accordance with the strategic objectives of the adopted planning framework. Please see paragraphs 5.11 to 5.27 of this Statement for a consideration of the relevant planning policy framework.

**Contribution to the social, economic and environmental well-being of the area**

- 7.10 Section 226(1)(a) of the Act directs that an acquiring authority may not exercise the powers under this section unless it thinks that the proposed development, redevelopment or improvement is likely to contribute to the economic, social or environmental well-being of the area for which the Authority has administrative responsibility.

- 7.11 As set out in this Statement, the High Path Estate – and indeed the Estates in general – face a number of major shortcomings. As detailed above, the Council has undertaken a comprehensive investigation of the options for the repair and/or redevelopment of the Estates and it has determined that regeneration is the most viable means to achieve the Estates Local Plan objectives. The High Path Estate regeneration, as part of this wider Scheme, will make a very material contribution to the economic, social and environmental well-being of the area.

### **The Scheme Generally**

- 7.12 Promotion or improvement of *economic well-being* will occur through the increased vitality and viability of the Estates. The main economic benefits previously identified for the Scheme as a whole will be:
- 7.12.1 A total investment of c.£1.8 billion in the Estates and wider Merton area;
  - 7.12.2 The creation of approximately 4,584 gross temporary construction jobs (equating to 459 permanent construction jobs);
  - 7.12.3 Increased economic activity by reason of increased employment and expenditure during each Phase of the Scheme; and
  - 7.12.4 Increased economic activity by reason of increased employment and expenditure during the operational phase of the Scheme and the introduction of expanded residential uses.
- 7.13 Promotion or improvement of *social well-being* will be delivered by:
- 7.13.1 provision of new, well-designed, energy-efficient homes that will meet the needs of residents now and in the future;
  - 7.13.2 up to 3,272 new homes across all three Estates (pursuant to the Proposed OPA). With 1,175 existing homes being demolished across all three Estates, this results in a net uplift of up to 2,097 new homes;
  - 7.13.3 the provision of c. 29% affordable housing overall across the Estates on a habitable rooms basis which includes no net loss of affordable housing;
  - 7.13.4 an improved housing mix better suited to meet the needs of existing affordable housing tenants on the estates having regard to the Housing Needs studies undertaken for each estate;
  - 7.13.5 improved public realm and green spaces, including safety improvements for residents on the estate. The neighbourhood park

and green spaces will ensure significantly improved play and exercise opportunities for both children and adults; and

- 7.13.6 improved pedestrian, cycle and vehicular access links to improve permeability and to foster the creation of a healthy and safe community.

- 7.14 Promotion or improvement of *environmental well-being* will occur through the following main environmental benefits:

- 7.14.1 redevelopment of a brownfield site;
- 7.14.2 provision of new, well-designed, energy-efficient homes that will meet the needs of residents now and in the future;
- 7.14.3 enhancement of the townscape through the replacement of outdated buildings with a contemporary and well-designed residential development. The public realm will be improved and heritage assets appropriately and respectfully treated within the Scheme;
- 7.14.4 increased housing density appropriate to the suburban locations of the Estates and to national and local planning policy;
- 7.14.5 provision of efficient layouts and high quality public open space, community and recreational facilities; and
- 7.14.6 replacement of poorly insulated properties by new, energy efficient homes.

### **High Path Estate and the Order Land**

- 7.15 In respect of the Order Land, the proposed regeneration will improve the social, economic and physical environment of the High Path Estate specifically by developing a new mixed tenure neighbourhood where all homes are built to a high quality with their own outside space with well-designed and maintained public open space.

- 7.16 The High Path Estate regeneration will help to address the socio-economic inequalities of the area. High Path has a distinct socio-economic profile compared to the borough as a whole and generally contrasts with the socio-economic conditions of the borough as a whole. Specifically, the following characteristics have been identified as worsening in respect of High Path Phases 2 and 3 without redevelopment:

- 7.16.1 The projected increase in the child population, alongside low levels of income and high unemployment in the area will heighten concerns over child poverty;

- 7.16.2 High levels of youth unemployment constrain the skills and occupational profile of the local population which will impede access to higher value employment opportunities. This constrains the spending power of residents, contributes to further inequalities in skills in the Borough and local area, reducing residents' economic prosperity and social well-being; and
- 7.16.3 The poor-quality living environment, limited housing opportunities and affordability issues will also adversely affect economic and social prospects contributing to poor levels of health; higher levels of deprivation; further health risks associated with overcrowded dwellings; an unattractive living environment; and reduce social cohesion.
- 7.17 The economic consequences of the COVID-19 pandemic have not yet been fully captured by local statistics but it is likely that this will exacerbate the existing issues faced by the local community.
- 7.18 Promotion or improvement of *economic well-being* will occur in respect of High Path Phases 2 and 3 through:
  - 7.18.1 The creation of 130 construction jobs annually over a three-year construction period;
  - 7.18.2 The construction will provide a one off boost the economy of £42.5 million gross added value, £10.2 million of which is likely to be retained in the local area;
  - 7.18.3 Once operational, it is estimated that the mixed use elements of Phase 3 will support 115 jobs, generating £5.3 million in gross value every year, of which £800,000 is likely to be retained in the local area;
  - 7.18.4 The estimated increase of 805 people living within High Path Phases 2 and 3, which would unlock an additional:
    - (a) £880,000 in additional council tax revenue per annum once fully occupied; and
    - (b) An estimated net expenditure increase in the local area of £7.5 million annually;
  - 7.18.5 There is potential for on-site training in construction which could develop local skills which in turn will benefit the local economy;
  - 7.18.6 The development will be liable to Community Infrastructure Levy (CIL) payments, and these monies can be utilised by the Council to fund



improvements in social infrastructure, including to education, healthcare and community facilities, leisure and open space; and

- 7.18.7 The New Homes Bonus will enable the Council to retain a greater proportion of the Council tax revenue to be made available to spend in the borough.

- 7.19 Promotion or improvement of *social well-being* will be delivered by:

- 7.19.1 487 new homes, with a net uplift of 311 homes;
- 7.19.2 The redevelopment of Phases 2-3 of the High Path Estate providing 93 affordable homes (all within Phase 2). This is in addition to the 80 affordable homes delivered in Kick Start Phase 1;
- 7.19.3 The proposed housing development reinforcing the attractiveness of High Path as a vibrant and balanced community; and
- 7.19.4 The proposal increasing the supply of high quality housing, creating an attractive living environment in the area and providing better quality affordable housing.

- 7.20 Promotion of environmental *well-being* will occur through:

- 7.20.1 The redevelopment of a brownfield site;
- 7.20.2 The provision of new, well-designed, energy-efficient homes that will meet the needs of residents now and in the future;
- 7.20.3 The enhancement of the townscape through the replacement of outdated buildings with a contemporary and well-designed residential development;
- 7.20.4 Public realm improvements;
- 7.20.5 Provision of an efficient layout and a high quality public open space;
- 7.20.6 Provision of community, recreational and gym facilities; and
- 7.20.7 Replacement of poorly insulated properties by new, energy efficient homes.

- 7.21 These benefits should be looked upon in tandem with the benefits of the regeneration of Eastfields Phase 1 and Ravensbury Phases 2 to 4.

- 7.22 For the above reasons, the Council considers that the well-being tests set out in section 226 are fully satisfied in respect of the Order as made and submitted for confirmation.

## **Viability of the regeneration and general indication of funding intentions**

- 7.23 The Developer has considerable experience and resources. It manages over 125,000 homes across 176 local authorities. It is the largest housing association in the UK and is one of the country's leading housebuilders, set to build a high volume of high quality homes of all tenures during the next ten years.
- 7.24 The Developer has an impressive track record of working on large regeneration schemes across the UK.
- 7.25 To support the Scheme as a whole, the Council and the Developer varied the existing Stock Transfer Agreement dated 22 March 2010, in particular the Development and Disposals Clawback Agreement also dated 22 March 2010, to suspend clawback payments unless the Scheme achieves a surplus.
- 7.26 The Developer has shared with the Council details of projected costs and revenues and its financial strategy for delivery of the High Path Estate regeneration pursuant to the planning permissions. The Developer has confirmed they have sufficient resources to carry out the development and do not anticipate requiring external, development-specific, funding. The Developer's Board resolved on 30 September 2021 to reaffirm its commitment to delivering the Scheme even though there is anticipated still to be a deficit between the costs of the Scheme and the income generated by the sale of the private units.
- 7.27 The Council does not consider there to be any funding impediment to acquiring the Order Land and the delivery of that part of the High Path Estate regeneration being brought forward pursuant to the Order. The Developer is fully committed to delivering this element of the Estate's regeneration, (and indeed the wider regeneration of the Estate and the wider Scheme), having expended considerable resources to date on acquiring relevant interests, negotiating to acquire further interests by agreement, and in obtaining the main planning approvals required to authorise and deliver it.
- 7.28 The Developer has entered into an indemnity agreement with the Council dated 7 February 2019 which fully indemnifies and provides protection for the Council in relation to all costs associated and arising in the preparation and making of the Order, acquisition of Order Land and the payment of compensation arising from such acquisition.
- 7.29 The Council is satisfied, having regard to the Developer's resources, its standing as the UK's largest housing association, its reaffirmed commitment to the Scheme and the requirements of the Guidance, that the 2022 CPOs are deliverable and that, having regard to national guidance, there is sufficient probability that the proposed regeneration of the Estates will proceed.

### **Prospect of Scheme proceeding: Implementation of the Scheme**

- 7.30 The Council is confident that there is no impediment to the successful delivery of the regeneration of High Path Estate.
- 7.31 As set out above, the Council has granted outline planning permission for the regeneration of each of the Estates. The Council envisages that the related orders can successfully be obtained.
- 7.32 Stopping Up orders will be required in respect of the redevelopment of the High Path Estate. All of these areas are shown on the Stopping Up plan.
- 7.33 The Council's investigations have revealed no other legal, financial or physical impediment and the Council is confident that there is a good prospect of the Scheme proceeding.

### **Whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means**

- 7.34 As discussed above, other options to meet the obligation to provide housing stock to Decent Homes standards were discounted as not being cost effective or delivering the significant benefits of the Scheme.
- 7.35 As regards the High Path Estate, in order to deliver its regeneration the Developer requires unencumbered ownership with vacant possession of all the property interests which will form part of the new development.
- 7.36 The Council and the Developer have made considerable efforts to acquire all land interests on the High Path Estate by agreement but the prospects of acquisition of all interests in the Order Land by agreement within a reasonable timescale are unlikely.

### **Conclusions regarding the need for the Order at this time**

- 7.37 In pursuing the Order, the Council has carefully considered the balance to be struck between the effect of acquisition on individual rights and the wider public interest in the redevelopment of the Order Land. Interference with rights under the European Convention on Human Rights (as further set out in Section 10 of this Statement) is considered by the Council to be justified, in order to secure the economic regeneration and environmental and public benefits which the proposed regeneration will bring.
- 7.38 The Council is satisfied that the redevelopment of the Order Land will have a positive impact on the social, environmental and economic well-being of the area, as the redevelopment will provide an overall improvement in the quality of life for local residents. Compulsory acquisition of individuals' property situated

within the Order Land is necessary to allow this comprehensive redevelopment to proceed, and for these benefits to be delivered.

7.39 Due to the substantial public benefit which would arise from the regeneration of the High Path Estate, it is considered that the use of compulsory purchase powers is both necessary and proportionate, and that there is a compelling case in the public interest for the making and confirmation of the Order. It is considered that the Order does not constitute any unlawful interference with individual property rights.

7.40 All of the Order Land is required to deliver the comprehensive redevelopment of Phases 2 and 3 of the Estate's regeneration. There is no certainty that the necessary land and interests can be assembled by agreement within a reasonable period and as such the Order is necessary, although efforts to acquire all interests by negotiation will continue in parallel.

## **8 Consultation and Engagement**

8.1 The Council and the Developer have been firmly committed to understanding the aspirations of residents of the Estates and their views have helped shaped masterplan proposals. The Developer has engaged in a comprehensive consultation process with local residents and statutory consultees across each of the Estates, details of which are set out below:-

8.1.1 The Developer started consultation with residents about the future of the Estates in the summer of 2013.

8.1.2 In 2013 feasibility studies and summer consultation events encouraged residents to join the conversation about the future of their homes and introduced the idea of replacing homes in the three neighbourhoods.

8.1.3 In winter 2013 the decision to explore regeneration was taken based on feedback from consultation events. The (then) Merton Priory Homes Board decided that regeneration would be the best way of delivering long-term improvements in the three neighbourhoods.

8.1.4 2014 - Design stage. Architects were selected to support the proposed regeneration of the three Estates.

8.1.5 In summer 2014 a series of consultation events were held including coffee mornings, drop-in events, design workshops, community events and one-to-one meetings. These events were held locally and focussed on:

(a) Getting to know the architects and what their role would be;

- (b) Walkabouts so the architects could get a better understanding of the neighbourhood from the residents' point of view;
  - (c) Visits to other regeneration schemes in London; and
  - (d) Gathering and presenting feedback from residents on the design ideas.
- 8.1.6 Landlords, homeowners and tenants were provided with specific information about what regeneration would mean for them and the choices available to them.
- 8.1.7 September 2014 – Ten Commitments. The Council and the Developer signed up to Ten Commitments to the residents of the three neighbourhoods (discussed in detail below).
- 8.1.8 October 2014 - draft master plans were presented. Residents were shown potential layout for neighbourhoods and homes. Over 400 people attended these events to view the plans and look at the wide variety of housing types proposed. Three drop in events were held on each Estate (Saturdays and weekday evenings) and there were home visits to the elderly and vulnerable.
- 8.1.9 May 2015 - Master plans and Residents Offer. Revised master plans were presented to residents. The Residents' Offer (discussed below) was published setting out the guaranteed package of financial support that residents would be entitled to if regeneration were to go ahead. Three consultation events were held for residents of each Estate. Support was also provided by a dedicated member of staff from the Citizens Advice Bureau to provide residents with free, impartial and confidential advice.
- 8.1.10 June 2015 - Independent residents' survey. An independent survey was carried out by Membership Engagement Services. There was a 52.5% response rate achieved with the views of 634 residents collected. Overall 50.5% of respondents agreed that regeneration would be the best for their household and 58.4% agreed that the regeneration would be the best for their neighbourhood overall.
- 8.1.11 October 2015 - decision to proceed with initial planning applications. The Developer's Management board gave its approval for the submission of initial planning applications.
- 8.1.12 January 2016 - consultation on draft designs for first new homes. Residents of High Path and Ravensbury were invited to a series of

events throughout January to view proposals for the first new homes in their neighbourhoods.

- 8.1.13 May 2016 – consultation on revised designs for first new homes. Residents of High Path were invited to a series of consultation events to view revised proposals for the first new homes.
- 8.1.14 July/August 2016 – scaled models of some of the proposed typologies as well as exhibition boards and 1:1 model of a 1 bedroom flat were displayed at a series of events.
- 8.1.15 October to December 2016 – master plan consultation. Consultation events in each Estate were held to discuss the latest master plan proposals. These included designs for the neighbourhoods, house types and phasing plans, ahead of outline planning applications being submitted.
- 8.1.16 October 2017- revised indicative phasing consultation was undertaken on High Path.
- 8.1.17 October 2018 – consultation event on High Path Phase 2 proposals.
- 8.1.18 February 2019 – further consultation event on detailed design High Path Phase 2 proposals.
- 8.1.19 June 2019 – consultation events held on the design and layout of High Path Phase 2.
- 8.1.20 Summer 2020 – High Path regeneration newsletter was sent to residents to update them on Kickstart Phase and Phase 2.
- 8.1.21 January 2022 - Notices served under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 with online sessions held for residents. Further online stakeholder consultation also took place in respect of Phase 3.
- 8.1.22 July 2022 – online consultation events were held for residents and stakeholders;
- 8.1.23 September 2022 – an open house festival event was held;
- 8.1.24 October 2022 – in-person and online consultation events were held in respect of Phase 3;
- 8.1.25 January 2023 – demolition letters and notices were hand delivered to residents on the Estate in respect of all Phases;

- 8.1.26 January 2023 – a Winter High Path regeneration newsletter was sent to residents;
  - 8.1.27 July 2023 – letters were issued to all High Path residents to update them as to the progress of the Proposed OPA:
  - 8.1.28 September 2023 – two resident engagement days were held on the Estate along with the issue of an Autumn newsletter;
  - 8.1.29 Numerous Merton Community Panel events have been held since January 2022; and
  - 8.1.30 In addition, statutory consultation has been carried out as part of the Estates Local Plan process and each outline and reserved matters planning application in accordance with the legislative requirements.
- 8.2 In addition, the Developer has broadened its level of community engagement by sending a quarterly newsletter to all existing residents, informing residents of the latest updates on the regeneration proposal.
- 8.3 The Developer has also been in consultation with the Council as local planning authority throughout the planning application process as well as with statutory consultees. Feedback from this consultation has informed the planning applications.
- 8.4 Throughout the consultation exercise, all responses received have been thoroughly reviewed and considered and amendments to the proposals have been incorporated on an iterative basis. The result of this detailed exercise was the submission of four significant outline planning applications together with two Kickstart planning applications that ensured residents would only need to move once.

### **High Path Estate - Engagement**

- 8.5 In relation to the High Path Estate specifically:
- 8.5.1 Public consultation events were held between July 2013 and November 2016. The design team consulted with existing residents, the local community and key stakeholders including the following groups:
    - (a) Existing residents of High Path;
    - (b) Neighbouring residents and businesses;
    - (c) Local amenity groups, including: Merton Abbey Primary School; Battles Area Housing Association; South Wimbledon

Community Association; Wimbledon Society; Uptown Youth Club; Merton Abbey Primary School; High Path Community Association; The Parish of St John the Divine & Merton Evangelical Baptist Church; and Polka Theatre; and

(d) The local MP and local councillors.

**9 Efforts to acquire by agreement and residents' offer**

9.1 The Council is exercising its powers under section 226(1)(a) and section 226(3)(a) because it has not been possible for the Developer to acquire by agreement all interests that are required to deliver Phase 2 and Phase 3 of the High Path Estate regeneration, and it is not certain that the Developer will be able to acquire the remaining land by agreement. Although the owners of the interests have been approached on a number of occasions by the Developer with a view to purchasing their interests, agreement for purchase has not been reached because the owners have either not yet decided which of the options available to them they wish to exercise or they are waiting for as long as possible before selling their interests to the Developer.

9.2 Single ownership and control of the Order Land is necessary to enable the High Path Estate regeneration to proceed. It is not considered likely that the Developer will be able to acquire all the necessary interests by agreement within a reasonable period. The Council is therefore satisfied that the use of compulsory purchase powers is necessary and justifiable in the public interest.

9.3 In order for the 2022 CPOs to be delivered the following property interests will need to be acquired (as at 20 October 2023):

9.3.1 Within Eastfields Phase 1, 39 property interests remain to be acquired;

9.3.2 Within High Path Phases 2 and 3, 18 property interests remain to be acquired;

9.3.3 Within Ravensbury Phases 2 to 4, 1 property interest remains to be acquired.<sup>2</sup>

9.4 Following the Order being made, the Developer has also continued its efforts to seek to acquire all interests voluntarily. Since the Order was made, the following interests within the High Path Estate which are listed within the Schedule to the Order have been acquired by the Developer by agreement:

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<sup>2</sup> As of the end of October 2023, the Developer has acquired 277 property interests across the Scheme area through voluntary sales under the terms of the 2015 residents offer (as updated by the 2018 and 2023 resident offers). Of these, 173 property interests are at High Path, 93 property interests are at Eastfields and 13 property interests are at Ravensbury.



- 9.4.1 9 Hayward Close
- 9.4.2 47 Marsh Court
- 9.4.3 17 Marsh Court
- 9.4.4 61 Marsh Court
- 9.4.5 46 Marsh Court
- 9.4.6 16 Marsh Court
- 9.4.7 13 Marsh Court
- 9.4.8 52 Pincott Road
- 9.4.9 50 Pincott Road
- 9.4.10 62 Marsh Court
- 9.4.11 3 Becket Close
- 9.4.12 5 Stane Close
- 9.4.13 45 Marsh Court
- 9.4.14 22 Becket Close
- 9.4.15 4 Becket Close
- 9.4.16 1 Marsh Court
- 9.4.17 21 Marsh Court
- 9.4.18 7 Gilbert Close
- 9.4.19 55 Priory Close
- 9.4.20 1 Lovell House
- 9.4.21 9 Lovell House
- 9.4.22 3 Dowman Close
- 9.4.23 1 Stane Close
- 9.4.24 44 Marsh Court
- 9.4.25 8 Dowman Close

- 9.5 The Council considers that the use of its CPO powers to acquire both the outstanding interests in the Order Land and the new rights is necessary, since the Developer has not been able to achieve this by agreement and it is unlikely that it would be able to do so within an acceptable timescale without the Order. The High Path Estate regeneration cannot proceed unless these interests are acquired. The Council is satisfied that the acquisition of these interests will facilitate the proposed regeneration, which will lead to the redevelopment and will contribute to economic, social and environmental improvements to the area.
- 9.6 In making its assessment of the justification for the Order, the Council has taken into account the rights of third parties protected by the European Convention on Human Rights which may be affected by the Order (as referred to in Section 10 of this Statement). In addition, the Council has had full regard to its public sector equality duty under section 149 of the Equality Act 2010 (as referred to in Section 11 of this Statement).
- 9.7 The Council acknowledges that when proposing large scale regeneration, there are considerable uncertainties and challenges for residents. The Council and Developer have undertaken significant consultation with residents. The consultations undertaken are detailed fully in Section 13 of this Statement. To support the Scheme and to ensure fairness for residents, the Council and Developer agreed a series of promises to residents, known as the Ten Commitments (Document 28) which are:
- 9.7.1 the Developer will consult with residents, consider their interests at all times, and address concerns fairly.
  - 9.7.2 current homeowners will be entitled to at least the market value of their home should they wish to take the option to sell their home to the Developer.
  - 9.7.3 existing tenants will keep all their rights, including tenancy conditions and the associated rent level, in the new neighbourhood as they do now.
  - 9.7.4 current tenants will be entitled to be rehoused in a new home of appropriate size considering the number of people in their household.
  - 9.7.5 all new properties will be more energy efficient and easier to heat than existing properties, helping to keep down residents' fuel bills.
  - 9.7.6 the Developer will keep disruption to a minimum, and will do all it can to ensure residents only move once if it is necessary to house them temporarily while their new home is being built

- 9.7.7 the Developer will offer extra help and support for older people and / or disabled residents throughout the regeneration works.
- 9.7.8 the Developer will continue to maintain the homes of residents across the three neighbourhoods throughout the planning process until regeneration starts, including ensuring a high quality responsive repairs service.
- 9.7.9 any growth in the number of homes will be consistent with the Council's Development Plan so that it is considered, responsible and suitable for the area.
- 9.7.10 as a not for profit organisation, the Developer will not profit from any regeneration and will use any surplus to provide more housing or improve existing neighbourhoods.
- 9.8 The Developer has made a detailed Residents' Offer (Document 29). They have also made a series of commitments on repairs and maintenance. These service elements, while not directly relevant to the Scheme, are of considerable importance to residents.
- 9.9 The Residents Offer details the Replacement Home Option which is offered to those resident homeowners who were living on one of the three Estates on the 27 May 2015 (when the Residents Offer was published). The Replacement Home Option confirms:
  - 9.9.1 If you are currently a freeholder you will be offered a freehold on your new property.
  - 9.9.2 If you are a leaseholder you will be offered a new long lease on your new property.
  - 9.9.3 The Replacement Home will be at least as large as the home it replaces, unless you choose to move to a smaller home.
  - 9.9.4 Every Replacement Home will have private outdoor space (i.e. a garden, balcony or roof terrace) irrespective of whether the original home had this or not.
  - 9.9.5 If you live in a house you will be offered a house, if a flat a new flat and a maisonette a new maisonette.
  - 9.9.6 The new home will have the same number of bedrooms as the existing home had when it was first built.
  - 9.9.7 There will be a Replacement Home for every resident homeowner who chooses to stay.

- 9.9.8 They will be entitled to a £3,000 disturbance allowance.
- 9.10 The Developer has committed, where possible, to moving resident homeowners straight into their new Replacement Home, i.e. without the need to be temporarily housed. The phasing plans for all three Estates' regenerations have been designed to accommodate this approach. For a small number of existing resident homeowners this may not be possible, for example as a consequence of their choice of location and its position in the phasing plan. The Developer may be able to offer a temporary home in their Estate or another part of Merton.
- 9.11 A disturbance payment of £3,000 will be available. Resident homeowners will not be charged rent in their temporary home as long as they agree to the terms set out in the Residents Offer regarding accepting the market value plus 10 per cent for their existing home, the value of the new home and the licence agreement for the temporary home.
- 9.12 The Council is satisfied that a strong Residents' Offer has been made that treats residents fairly and ensures communities within the Estates can remain consistent and cohesive after the regenerations.
- 9.13 The Developer also made offers to all persons listed within the Order whose rights over the Order Land are to be acquired. A summary of the engagements are as follows:
- 9.13.1 In January 2023, offer letters were sent to 145 interest holders;
- 9.13.2 To date, 107 interest holders have engaged with the Developer's agent further to the offer letters;
- 9.13.3 To date, 34 interest holders have agreed compensation levels 'in-principle – heads of terms have been issued with a view to entering into deeds of release / agreements; and
- 9.13.4 To date, 38 interest holders have not responded to the offer letters. The Developer sent follow-up letters in June 2023 to these interest holders.

## 10 **Human Rights Considerations**

- 10.1 Section 6 of the Human Rights Act 1998 prohibits a public authority from acting in a way which is incompatible with the rights and fundamental freedoms set out in specified provisions of the European Convention on Human Rights (the **Human Rights**).
- 10.2 The Human Rights likely to be engaged in the process of considering, making, confirming and implementing a compulsory purchase order include those under

Article 6 (right to a fair and public hearing to determine a person's civil rights), Article 1 of the First Protocol (right to peaceful enjoyment of possessions) and Article 8 (right to respect for private and family life including a person's home).

- 10.3 Any interference with a Human Right must be necessary and proportionate. Compulsory purchase and overriding private rights must be justified by sufficiently compelling reasons in the public interest and must be a proportionate means of achieving the objectives of the Order. Similarly, any interference with rights under Article 8 (right to home life) must be "necessary in a democratic society" and proportionate. The requirements under the Convention are reflected in paragraphs 17 and 18 of the CPO Guidance:

*"17. A compulsory purchase order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention.*

*18. The confirming Minister has to be able to take a balanced view between the intentions of the acquiring authority and the concerns of those whose interest in land it is proposed to acquire compulsorily. The more comprehensive the justification which the acquiring authority can present, the stronger its case is likely to be. But each case has to be considered on its own merits and the advice in this Part is not intended to imply that the confirming Minister will require any particular degree of justification for any specific order. Nor will a confirming Minister make any general presumption that, in order to show that there is a compelling case in the public interest, an acquiring authority must be able to demonstrate that the land is required immediately in order to secure the purpose for which it is to be acquired."*

- 10.4 If a compelling case in the public interest can be demonstrated as the Council considers here, then this will meet the requirements of the Convention. In making this Order, the Council has carefully considered the balance to be struck between individual rights and the wider public interest. Having regard to the matters set out above a compelling case in the public interest exists for the making and confirmation of the Order. Interference with Human Rights, to the extent that there is any, is considered to be justified in order to secure the economic, social and environmental benefits which the Scheme will bring, namely the creation of new, well designed, high quality neighbourhoods aimed at fundamentally improving the quality of life for existing and future generations living in the area. This coupled with the significant level of public consultation, and a robust, fair offer to residents in the Estates means the Scheme minimises the interference with the rights of those affected.

- 10.5 Appropriate compensation will be available to those entitled to claim it under the relevant statutory provisions.
- 10.6 In relation to the requirements of Article 6 (right to a fair and public hearing), these are satisfied by the statutory procedures which include rights to object and to be heard at any public inquiry and by the right to statutory challenge under the Acquisition of Land Act 1981.
- 11 Public Sector Equality Duty**
- 11.1 In discharging its functions, the Council has a statutory duty under section 149 of the Equality Act 2010 to have due regard to the need to:
- 11.1.1 eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - 11.1.2 advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - 11.1.3 foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 11.2 The "relevant protected characteristics" are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.
- 11.3 A full Equality Impact Assessment (**EqlA**) was undertaken as part of the Estates Local Plan. EqlAs (dated March 2022) were also undertaken to re-examine the equalities impacts of the Scheme as a whole, with specific assessments carried out for each Estate (Document 39).
- 11.4 The EqlAs have considered the impact upon protected groups whose lives may be affected by the acquisition of land and rights, by the construction of the Scheme and/or by the completed Scheme. The protected categories that could potentially be affected by the Scheme are: age, disability and race/belief.
- 11.5 However, the EqlA concludes that the impacts of the Scheme will be broadly positive through:
- 11.5.1 opportunity to reduce overcrowding amongst its tenanted households. Overcrowding is proportionately more likely to affect households from the BAME community and so the regeneration provides an opportunity to address inequality in this area. Significant amenity and size improvements will be provided for residents, with all new homes built to current space standards with private outdoor space.

- 11.5.2 the regeneration is an opportunity to provide new lifetime homes for all tenants, this will enable older tenants (and homeowners) to remain independent in their own homes for longer. New homes can be adapted to meet the specific needs of disabled residents, 10% of all new homes will be fully accessible and adaptable for wheelchair users.
- 11.6 Steps are being taken to ensure that the acquisition and relocation processes are applied in a fair and non-discriminatory way. However, it is acknowledged that the process of redeveloping the Estates itself is likely to have a negative impact on older, disabled and vulnerable residents, due to the requirements to move house, potentially more than once, if temporary accommodation is necessary during the construction period. The greatest impact on equalities will be the mechanics of the Estates' regeneration including: the residents' offer; moving existing residents into new homes; addressing overcrowding; and minimising disruption during this extensive process.
- 11.7 The Developer has committed to designing the Phases to minimise the need to "double decant" and where at all possible older, vulnerable or disabled tenants will only be asked to move once, straight into a new home. Help will be provided to assist with such moves.
- 11.8 In promoting the Order and delivering Phase 2 and Phase 3 of the High Path Estate Scheme the Council and the Developer will seek to keep the existing community together with existing residents having a guaranteed right to return to a new home in their regeneration neighbourhood. The Ten Commitments and Residents Offer (discussed in Section 9 above) provide a strong mechanism to achieve this.
- 11.9 The EqIA will continue to be monitored and reviewed throughout the progression of the proposals in order to ensure that any future impact can be measured and mitigated against as necessary.
- 11.10 To conclude, steps are being taken to ensure that the acquisition and relocation processes are applied in a fair and non-discriminatory manner. Steps will also be taken to minimise the adverse effects on protected groups during construction and any such effects suffered by surrounding ethnic minority businesses. The proposals will bring a range of benefits to disabled and other protected groups including in relation to enhanced access, housing provision, lifetime homes.
- 12 **Council's Response to Objections to the Order**
- 12.1 In total, 21 objections were received in relation to the Order. However, 8 of these objections have subsequently been withdrawn following the Developer entering into voluntary agreements with the relevant objectors. This Statement

does not set out the Council's response to those withdrawn objections. A schedule of the withdrawn objections is attached at Document 42.

12.2 Consequently, 13 objections remain outstanding. The position of each objector is summarised in the following paragraphs, together with a summary of the Council's response. The Council reserves the right to expand upon and add to the matters summarised below, when submitting evidence to the public inquiry to be held in respect of the Order.

12.3 **Letter from Transport for London (TfL) on behalf of London Bus Services Limited, London Underground Limited and Transport for London dated 14 July 2022**

12.3.1 **Objection:** *Concerns that the acquisition of residential premises at 1, 9 and 11 Hayward Close includes a London Underground Limited tunnel as rights to use subsoil beneath these properties has been included in within the interests at Table 2 of the Statement of Reasons.*

12.3.2 **Response:** The Developer contacted TfL after receipt of the objection to confirm that the Developer and the Council did not have any intention to acquire any right or interest in the tunnel running under the relevant interests listed in the Schedule. The Council and the Developer have since confirmed to TfL that, albeit the freehold interests of 1, 9 and 11 Hayward Close (Plots 8-10 of the Schedule) are being compulsorily acquired as part of the Order, the acquisition of London Underground Limited's (**LUL**) rights (which are noted on the titles of these properties) are not required in order to carry out redevelopment pursuant to the Order.

12.3.3 An agreement is being negotiated between LUL, the Developer and the Council, to confirm that the Council will not seek to acquire LUL's rights in relation to these three plots. The Developer is confident that this agreement will be completed in advance of the public inquiry. These concerns are therefore being directly addressed.

12.3.4 The Developer is also negotiating an infrastructure protection agreement with LUL which explicitly authorises the development works relating to the Order and sets out various obligations to ensure the protection of LUL's assets and infrastructure, including indemnities and insurance provisions. The Developer is confident that this agreement will be completed in advance of the public inquiry.

12.3.5 **Objection:** *There is provision within the Order for the acquisition of crane oversailing rights over London Underground Limited operational land, land on which London Bus Services Limited bus*



*shelter is located and land containing former tram ducts owned by Transport for London. It is not clear if such rights are to be temporary or permanent (which would not be acceptable without appropriate infrastructure protection arrangements).*

- 12.3.6 **Response:** This specifically concerns Plots 64 to 76 (inclusive) of the Order. The Developer has been in regular contact with TfL regarding this matter. Following further consideration, the Developer has confirmed that it will no longer require any crane oversailing over any part of the London Underground Limited's operational land in order to construct the development of High Path Phase 3. The Council and the Developer therefore consider that these Plots can be removed from the Order.
- 12.3.7 The Council and the Developer, as part of the agreements referred to above, are negotiating an agreement with TfL to confirm that the Order will not be implemented to acquire oversailing rights over any part of the LUL's land and apparatus in relation to Plots 64 to 76 (inclusive).
- 12.3.8 **Objection:** *Potential interference with rights of light / daylight enjoyed by South Wimbledon Station owned by London Underground Limited.*
- 12.3.9 **Response:** The Developer is committed to negotiating the terms of agreements with owners and occupiers of neighbouring property for the release of rights of way, light and air or any other legal or equitable rights over the Order Land (including any railway assets) which would be infringed by or prevent or impede the carrying out of the development works on the Order Land. The Council considers that there is a compelling case in the public interest which outweighs any adverse impact on light to South Wimbledon Station.

#### 12.4 **Objection dated 13 July 2022 – 25 Abbey Road and 1 Nelson Grove**

- 12.4.1 **Objection:** *New building proposals will be 16 meters in height and so will result in a natural loss of light for tenants of residential premises at 25 Abbey Road and 1 Nelson Grove Road. Specifically, there are concerns that one of the flats will be uninhabitable as a result.*
- 12.4.2 **Response:** The Developer and its consultant have engaged in regular contact with the objector regarding this concern. The Developer and its consultant have provided details of the proposed development that will be near to the objector's property and reassured the objector that the row of town houses replacing the existing three storey block of flats known as Lovell House will also be

three storeys in height and are broadly equivalent in terms of footprint and height.

- 12.4.3 Detailed floor plans have been provided by the objector. The Developer and its consultant have updated the three-dimensional computerised model with details taken from the floor plans and remain confident that any impact on rights to light will be de minimis and likely to be imperceptible to the tenants.
- 12.4.4 The objector has recently appointed a specialist right of light surveyor who will undertake a joint inspection with the Developer's right of light surveyor to carry out a measured survey and double check likely impacts. The joint inspection is due to take place on 24 October 2023.
- 12.4.5 The Developer is hopeful that a voluntary agreement will be reached with this objector before the public inquiry. Notwithstanding this, the Council considers that there is a compelling case in the public interest which outweighs any adverse impact on light to this property, having due regard to the Scheme and the level of impact on rights of light.
- 12.4.6 **Objection:** *The bins for 1 Nelson Grove Road are currently located on the access road between 1 Nelson Grove Road and Hubert Close and the local authority historically requested that the bins are left in this location for collection and the local authority has emptied the bins in this location for over 10 years and the proposed development will mean that bins can no longer be stored in this location and no alternatives have been offered by the local authority for bin storage.*
- 12.4.7 **Response:** It has become apparent that the objector had been storing bins on the Developer's private land immediately adjacent to the objector's property. The Developer and its consultant have liaised with the objector's surveyor in respect of this issue and this issue has been resolved such that the bins are now being stored on the owner's private land (of 1 Nelson Grove Road) and not on the Developer's land. The Developer does not consider that the residents of 25 Abbey Road and 1 Nelson Grove Road had the right to locate bins on the Developer's private land. The Council reserves the right at the public inquiry to produce evidence that the objector has no legal right to store its refuse bins on the Developer's private land.
- 12.4.8 **Objection:** *The scheme will have an adverse impact on the mental health and wellbeing of the residents of 25 Abbey Road, 25a and 25b Abbey Road and 1 Nelson Grove Road.*

12.4.9 **Response:** A comprehensive EqIA was undertaken as set out in Section 11 of this Statement of Case which assessed the equalities impacts of the scheme. The Council and the Developer remain committed to minimising and mitigating any impacts of the Scheme as far as possible and this will be closely monitored through the progression of the Scheme, noting that the overall impact of the scheme on the wider community will be positive. The Developer and its consultant are confident that any impact on rights to light will be de minimis and likely to be imperceptible to the tenants. No detrimental effects associated with mental health and wellbeing of the tenants of the objector's property have been identified.

## 12.5 **Objections dated 22 July 2022 and 19 August 2022 – 46 Priory Close**

12.5.1 **Objection:** *General objection to the CPO advising that he will not sell under any circumstances (22 July 2022).*

12.5.2 **Objection:** *Further general objection to CPO advising he will not sell under any circumstances (19 August 2022).*

12.5.3 **Response:** The Order proposed to acquire the objector's rights to light over the CPO Land. Further to enhanced due diligence undertaken by the Developer's right of light surveyor and legal representatives, this objector was contacted in May 2023 to confirm that, following a review of legal title, the property did not benefit from rights to light over the development. The Council will therefore not be acquiring any rights relating to this property. Consequently, a letter has been written to the Secretary of State to request that inclusion of this interest is removed from the Schedule to the Order.

## 12.6 **Objection dated 31 August 2022 - Flat 18, Gilbert Close**

12.6.1 **Objection:** *Concerns as Clarion have been renovating properties on High Path and moving in new residents from outside of the Borough including people from Eastfields when previous High Path residents had been informed that no transferring between estates would be allowed (which if offered to former residents of High Path would have been accepted).*

12.6.2 **Response:** The Developer has responded to this objector to make it clear that:

- (a) practically speaking, the phases comprising the regeneration of the High Path Estate cannot all be built out at once;

- (b) all permanent tenants and homeowners who wished to remain on the High Path Estate were offered a home in Phase 1 which completed in Autumn 2021 and residents have therefore moved into these homes;
- (c) the Developer has been in regular contact with all residents and have been clear about the strategy for residents in Phase 3;
- (d) as the Developer is not yet intending to demolish Gilbert Close, empty homes have been utilised either via a Property Guardian service or via assured shorthold tenancies (AST) referred to them by the Council, as homeowners move out of their homes or permanent tenants move into their new homes on the estate which also ensures blocks are not vulnerable to squatting and vandalism;
- (e) consequently, the Developer retains a responsibility to ensure the buildings are kept in good condition, such that works have taken place in Gilbert Close;
- (f) the Developer continues to work towards the demolition and subsequent construction of Phase 3 homes; and
- (g) additionally, the Developer has confirmed that tenants on an assured shorthold tenancy on the Eastfields Estate were offered a home on the High Path Estate. This decision was made by the Developer as it would provide housing to families within the London Borough of Merton. The Developer has advised this objector that the reverse is not possible as the Developer is preparing for the first phase of demolition and construction on the Eastfields Estate and unlike on the High Path and Ravensbury Estates, the Developer is unable to build out the first homes without demolishing existing homes. This means that the Developer must move households into temporary accommodation. The Developer therefore has no vacant homes on the Eastfields Estate to offer anyone on High Path.

12.6.3 **Objection:** *Within all properties that have been earmarked / identified for CPO it appears that the largest proportion of those identified are from predominantly a Muslim or South Asian background. Those who do not have English as their first language have not found the consultation process accessible, some residents have agreed that they would have had more input had they been extended the same*

*courtesy and service by Newman Francis which the Tamil families in the High Path community received.*

- 12.6.4 **Response:** The CPO is relates to Phases 2 and 3 of the regeneration of the High Path Estate. Further compulsory purchase orders will be sought for Phases 4-7 as the regeneration progress. An equalities impact assessment was undertaken which identified groups and protected characteristics that would be affected by the regeneration and also identified mitigations that should be put in place for those groups which the Council and the Developer continue to have regard to. It is emphasised that a translation service continues to be available on request to assist those for whom English is not their first language. The Developer has been translating documents into eight languages, including Bengali but the service also includes the option for a translator to be present for key conversations.
- 12.6.5 **Objection:** *Concerned by the delay in communication from Clarion reporting vital changes e.g. timelines. Vulnerable people need to feel at ease with any transition that takes place, with help to understand what is happening and why rather than just a letter through the door.*
- 12.6.6 **Response:** The Developer has been transparent about important dates concerning the regeneration of the High Path Estate. With any development of this size which is subject to compulsory purchase orders, some changes to the development plans are inevitable, however the Developer sends out regular newsletters with the pertinent information to keep residents informed, along with holding consultations events to enable residents to ask questions/raise concerns. The Developer is mindful of the large scale changes residents are having to deal with and remains available to discuss this objector's options with them to find a solution that works best for this objector and his family. Given the legal underpinnings of the compulsory process, sometimes deadlines have to be imposed but the Developer will give residents as much time as possible to enable them to make the right decision.
- 12.6.7 **Objection:** *Last year I received an email about a property that had been allocated to us but then in June I was told that it was no longer available for us and that it would be offered to the next eager leaseholder only to be told earlier this year that the property originally allocated to us was still available and waiting for us.*
- 12.6.8 **Response:** The Developer has been in regular communication with residents and is understanding of the important decisions involved in this compulsory purchase order process that residents have to make. It has been clarified in a letter from the Developer to this objector

dated 30 November 2022 that a ground floor property was originally held for this objector, however as no acceptance of this property was received, a new property has been allocated to this objector on the first floor of Acorn House. It is therefore correct that a home remains available to this objector in Acorn House and remains vacant.

12.6.9 **Objection:** *We requested a valuation in early 2021 but were told there was no one available to conduct one.*

12.6.10 **Response:** This is not accepted. The Developer has on numerous occasions offered a number of dates for a valuation, however the objector had understandable concerns about COVID-19 and so the objector cancelled the appointments. The Developer has continued to attempt to arrange a date to undertake a valuation, including in October 2022 and again in March 2023.

12.6.11 The Developer again contacted this objector on 6 October 2023 to reiterate that the resident's offer remains available and to confirm that a three bedroom flat on the first floor of Iris Lodge is being held for him and his family. It also sets out that the Developer has appointed Savills to undertake a kerbside survey of this property and to prepare a valuation without viewing the flat internally. The Developer invites this objector to contact Savills to arrange a mutually convenient time for the surveyor to visit this property should they wish.

12.6.12 Savills then issued a comprehensive offer letter on 11 October 2023 and offering to visit this property to undertake a detailed inspection and if applicable, to increase the Developer's offer. No response from the objector has been received to date.

12.7 **Objection dated 15 July 2022 and objection dated 15 July 2022– Flat 18, Gilbert Close**

12.7.1 **Objection:** *Concerns regarding the timeframes associated with High Path Phase 3 as there have been ongoing renovation works to neighbouring properties of Flat 18 Gilbert Close and people from outside of the Borough have moved into the building since being made aware of the CPO plans and further that as new tenants are moving into the building concerns that the Developer is no longer planning to demolish the building. Comments were also raised regarding the accessibility of the consultation process and translation services.*

12.7.2 **Response:** In a letter dated 4 October 2022, the Developer acknowledged receipt of these objections comprising largely similar wording submitted by the two objectors referred to above. In this

letter, the Developer confirmed a consultant would contact these objectors to address their queries and concerns. On 30 November 2022, the Developer issued a letter to both objectors, directly addressing the concerns raised in detail. This second letter made it clear that:

- (a) practically speaking, the phases comprising the regeneration of the High Path Estate cannot all be built out at once;
- (b) all permanent tenants and homeowners who wished to remain on the High Path Estate were offered a home in Phase 1 which completed in Autumn 2021 and residents have therefore moved into these homes;
- (c) the Developer has been in regular contact with all residents and have been clear about the strategy for residents in Phase 3;
- (d) as the Developer is not yet intending to demolish Gilbert Close, empty homes have been utilised either via a Property Guardian service or via assured shorthold tenancies referred to them by the Council, as homeowners move out of their homes or permanent tenants move into their new homes on the estate which also ensures blocks are not vulnerable to squatting and vandalism;
- (e) consequently, the Developer retains a responsibility to ensure the buildings are kept in good condition, such that works have taken place in Gilbert Close;
- (f) the Developer continues to work towards the demolition and subsequent construction of Phase 3 homes;
- (g) emphasising that the compulsory purchase is a last resort and that the Developer will continue to acquire properties without using these compulsory purchase powers. Additionally, reiterating that as a qualifying resident household, these objectors can either move to a new home on the estate or if they decide to leave the estate, will be compensated at the current value, with their legal costs paid, a disturbance allowance, mail redirection, refitting carpets and curtains, other related costs and additionally a 10% home loss payment;
- (h) making specific reference to the fact that the Developer continues to hold a property for these objectors within Acorn

House which is within Phase 1 of the regeneration of the High Path Estate; and

- (i) reiterating that a translation service is available to anyone who requires it and that the materials are currently provided in eight different languages at the request of residents. The Developer is able to provide this service to these objectors upon request.

The Developer remains willing and ready to engage with this objector and will continue with its attempts to acquire this interest by agreement. Please also refer to paragraph 12.6 for further details concerning the ongoing negotiations to acquire this property by agreement with a family member of this objector.

## 12.8 **Objection from Town Legal LLP on behalf of Linea Homes Limited dated 9 August 2022 – Trafalgar Public House**

12.8.1 **Objection:** *While there have been some intermittent discussions between our client and the developer (Clarion) there has been no offer made to purchase the rights of light enjoyed by the Property. Our client intends to develop the property and is preparing an application for planning permission to do so. Our client is willing to enter into an agreement with the Council and the developer which could include provision for the sale of the relevant rights (or an agreement not to enforce them) as well as mutually beneficial provisions to ensure the developers scheme and our clients proposed development are compatible. Until the Council and developer enter into meaningful discussions with our client it must maintain its objection.*

12.8.2 **Response:** The Developer and its consultants, Savills and Avison Young, have been in regular contact with this objector since September 2022 and have entered into meaningful negotiations with them to resolve their concerns. An offer of nominal compensation was made further to a comprehensive computerised modelling due diligence exercise being undertaken by the Developer's rights of light surveyors (Avison Young) which determined a minimal impact on current light levels in January 2023. The objector appointed its own rights of light surveyor who have been in direct contact with Avison Young to discuss the findings of their analysis. A joint inspection of the Trafalgar Public House was completed and the parties are in advanced negotiations, have agreed in principle terms on a without prejudice basis and the respective parties remain in regular contact. Throughout October 2023, both parties have maintained regular contact and have agreed to enter into in principle oversailing and party wall agreements to settle this objector's concerns. Negotiations



are therefore progressing and the Developer remains open to resolving any further concerns this objector may have as soon as practicable to enable this objector to withdraw its objection.

- 12.8.3 Notwithstanding the above, the Council considers that there is a compelling case in the public interest which outweighs any adverse impact on light to the Property.

**12.9 Objection dated 31 August 2022 - 8 Hudson Court and 22 Ryder House**

- 12.9.1 **Objection:** *Concerns (including of their tenants) that light to the properties will be obstructed due to the development and that there will also be lot of disruption, especially with regards to the natural light.*

- 12.9.2 **Response:** The Order proposed to acquire the objector's rights to light over the CPO Land. Further to enhanced due diligence undertaken by the Developer's right of light surveyor and legal representatives, this objector was contacted in May 2023 to confirm that, following a review of legal title, the property did not benefit from rights to light over the development. The Council will therefore not be acquiring any rights relating to this property. Consequently, a letter has been written to the Secretary of State to request that inclusion of this interest is removed from the Schedule to the Order.

**12.10 Objection dated 4 August 2022 – Flat 224A Flat A and Flat B Merton High Street**

- 12.10.1 **Objection:** *Object to any interference with light, air and space. Regarding light we fear that with roughly 5 storeys more than the existing buildings the shadows will cover our property fully for the whole day and will block out any sun and view and so lower rental income will be achieved.*

- 12.10.2 **Response:** The Developer and its consultants have had productive discussions with the objectors in respect of this concern. Upon further comprehensive due diligence being undertaken to ascertain the level of interference with rights to light of this property, the Developer made an offer of compensation to this objector in March 2023. The objector engaged their own rights of light surveyor who has been in contact with the Developer's surveyor. In September 2023, the objector accepted the offer and heads of terms for a deed of release have been issued to the objector for their approval. In October 2023, deeds of release have been drafted and circulated to the objector and their solicitors for review/approval. The Developer therefore expects a deed of release to be entered into in the next few

weeks, at which point the objector has stated it will withdraw its objection.

12.10.3 Notwithstanding the above, the Council considers that there is a compelling case in the public interest which outweighs any adverse impact on light to the Property, having due regard to the Scheme and the level of impact on rights of light.

12.10.4 **Objection:** *The planned number of parking spaces for the development is already not sufficient let alone the surrounding area which will have to carry the load of the increasing vehicles and traffic.*

12.10.5 **Response:** As stated above, this objector has agreed to withdraw their objection subject to the deed of release being entered into in respect of the interference of regeneration of the High Path Estate with their rights to light. Nonetheless, the Developer has sought to directly address car parking as part of the regeneration of the High Path Estate, to ensure that an adequate level of car parking is provided across the estate, including within ground level podiums and designed in a manner to make efficient use of space. The Developer is committed to ensuring that existing residents of the High Path Estate with cars are prioritised and allocated a space within the redeveloped High Path Estate.

12.10.6 The impacts of the Scheme in relation to High Path were considered both as part of the Extant OPA and the Proposed OPA, and were considered acceptable in both instances by the local planning authority. The Extant OPA S106 Agreement secures various mitigations in respect of car parking impacts, including:

- (a) A parking management plan;
- (b) An estates roads maintenance and access plan;
- (c) Obligations to pay financial contributions to the Council to consult on any new or varied controlled parking zones;
- (d) Obligations to secure that residents of the new residential units will not be entitled to permits to park within any existing or new controlled parking zones; and
- (e) A contribution to TfL towards bus capacity studies.

12.10.7 A deed of variation is currently being negotiated in relation to the Proposed OPA, so that the Proposed OPA will be bound by the terms of the Extant OPA S106 Agreement.

12.10.8 **Objection:** *Concerns regarding the need for increased infrastructure to accommodate the scale of the new development.*

12.10.9 **Response:** As stated above, this objector has agreed to withdraw their objection subject to the deed of release being entered into in respect of the interference of regeneration of the High Path Estate with their rights to light. Nonetheless, in respect of the matter raised, the proposed development will include a plethora of infrastructure including a new neighbourhood park with a children's play space alongside other open spaces including public realm with landscaping works, communal amenity spaces including to replace existing recreational facilities as well as new commercial and community floorspace, car and cycle parking spaces and the associated highways and utilities works. The Developer is committed to ensuring that the regeneration of the High Path Estate caters to all of the residents' requirements incorporated within a sustainable, high quality design. This has been previously demonstrated in order to obtain planning permission for the Order Land.

12.11 **Objections dated 12 July 2022 - 42 Abbey Road, 72 Abbey Road, 64 Abbey Road, 58 Abbey Road, 56 Abbey Road, 54 Abbey Road, 52 Abbey Road, 50 Abbey Road, 48 Abbey Road, 46 Abbey Road, 46 Abbey Road, 44 Abbey Road, 44 Abbey Road, 42 Abbey Road**

12.11.1 Please note that these objections were received from the property interest holder of 42 Abbey Road who has confirmed that she is acting as the lead objector on behalf of the Abbey Road residents listed above. Therefore, while there are numerous objectors, it was received as one objection and is therefore being dealt with as such in this Statement of Case. The Council and the Developer would expect that any withdrawal of the objection would be undertaken in the same manner.

12.11.2 **Objection:** *Objection to the building which will replace Lovell House which currently sits at a height of 9.6 metres to the highest point of the main rooftop structure and at 18.6 metres away from the Abbey Road Properties. The proposed development will reduce the gap between the properties to 14 metres and the height will be 10 metres. The Abbey Road Properties were built in 1906 and the properties all face West and South-West and due to the age of the properties they do not have cavity wall (or other) insulation so in the cooler months the properties can be cooler inside so every moment of sunlight is essential. Our properties will receive reduced sunlight throughout the year if the property is brought forward and increases in height. The development will inevitably look straight into our homes. We already*

*have to have either shutters, voiles or blinds to maintain any level of privacy due to how close the properties sit to the pavement, so we do not want to have to add to these further.*

- 12.11.3 **Response:** The Developer along with its consultants have been in discussions with these objectors in connection with their collective objection. Upon further comprehensive due diligence being undertaken to ascertain the level of interference with rights to light of these properties, the Developer submitted offers of compensation to the relevant interest holders of these properties and has circulated draft heads of terms for the objectors' consideration.
- 12.11.4 The Developer has sought to allay concerns regarding the impact of the new buildings (which are located within Phase 2 and are subject to reserved matters approval). In April 2023, using topographical information, the Developer confirmed that: the new building in Phase 2 would be set back from Abbey Road by 9.99m (whereas the existing building (Lovell House) is on set back by 9.66m) and would have a height varying 9.23m at the lowest point and 10.95m at the highest point (where the existing building (Lovell House) has a height of 9.69m). A presentation was circulated to the property interest holder of 42 Abbey Road to help demonstrate the dimensions (Document 43).
- 12.11.5 Following the circulation of the presentation, a meeting took place on 4 May 2023 to which all of these objectors were invited. A number of the objectors attended the meeting to discuss the due diligence exercise undertaken by the Developer's rights of light surveyors and the modelling of the impact on the rights of light of the above-mentioned Abbey Road properties.
- 12.11.6 It was agreed with the objectors that the Developer and its consultants would arrange the inspection of a sample of flats on Abbey Road for the purpose of undertaking a measured survey to double check the accuracy of the assumptions relied upon in the three-dimensional computerised modelling exercise. Savills attended inspections of 42, 54 and 56 Abbey Road on 27 July 2023. Avison Young then used the survey details to update the model. The measurements taken confirmed that any impact on rights to light would be de minimis and likely to be imperceptible to residents. This was conveyed to the owners of 42, 54 and 56 Abbey Road.
- 12.11.7 Heads of terms for a deed of release have been issued to the lead objector for their approval. It is understood that the heads of terms were circulated among several of the objectors and were deemed to

be satisfactory subject to confirmation that the measured survey confirmed that any loss of rights to light would be imperceptible.

12.11.8 The Developer is hopeful that voluntary agreements will be reached with all relevant interest holders before the public inquiry. Notwithstanding this, the Council considers that there is a compelling case in the public interest which outweighs any adverse impact on light to the Property, having due regard to the Scheme and the level of impact on rights of light.

12.11.9 **Objection:** *Properties on Danes Road should have been included in the Daylight, Sunlight and Overshadowing survey.*

12.11.10 **Response:** The Developer has carried out comprehensive rights of light surveys and is confident that the development of High Path Phases 2 and 3 will not interfere with any rights benefiting properties on Danes Road.

## 12.12 **Objection dated 31 August 2022 – Horse and Groom Public House**

12.12.1 **Objection:** *Oversailing rights are being sought over a greater extent of the property than is necessary and it is not necessary to acquire new permanent rights through the airspace over the property as these may be granted on a temporary basis by negotiated agreement for which UPPL are willing to engage in however the same commitment to negotiations has not been demonstrated by the Council or Clarion.*

12.12.2 **Response:** The relevant property is located within Plot 64 shown on the CPO Map and Schedule. The Developer has confirmed to the Council that it no longer requires oversailing rights in order to construct the development. The Council therefore considers that it is not necessary to implement the CPO in respect of Plot 64.

12.12.3 **Objection:** *Prescriptive access rights (with and without vehicles) are enjoyed over Hayward Close which have been obtained through long use. These rights facilitate access to the rear of the Property for staff and customer parking. It is understood that these existing rights will need to be overridden as part of the regeneration proposals but if similar alternative access rights are not formalised it will mean that access to the rear of the property will be permanently lost and this will likely lead to the closure of the public house, the loss of jobs and a community asset.*

12.12.4 **Response:** The Developer and its consultant, Savills, have been in contact with this objector to address this concern. The Developer is not disputing that some vehicles have accessed the rear of the

Property from Hayward Close for a period exceeding 20 years. The Developer has confirmed to the objector that the proposed development will continue to allow access to the rear of the Horse and Groom. The Developer and the objector reached a provisional agreement to continue providing access to the rear of the objector's property. In October 2023 the Developer's solicitors are negotiating a deed of easement with the objector's solicitors so this matter is being directly addressed. The Developer remains open to resolving any further concerns this objector may have as soon as practicable to enable this objector to withdraw its objection.

12.12.5 **Objection:** *The proposed regeneration immediately borders the property and there are concerns about the adverse impacts of dust, noise, vibration and additional construction traffic and/or any temporary road closures during the construction phase of the development which would have a negative impact on trade and wider business.*

12.12.6 **Response:** The Developer notes that this ground of objection is essentially an objection to the planning merits of the proposed regeneration. The planning merits have already been considered, and planning permission granted. It is on that basis that such concerns have been directly addressed by condition in the Extant OPA. A noise and vibration mitigation strategy is required to be submitted to and approved by the local planning authority prior to above ground works of each building in accordance with condition 18 of the Extant OPA which is required to 'explain noise attenuation measures for the proposed uses, including noise barriers, specified glazing and ventilation and orientation/layout of buildings and amenity areas.' Additionally, post-completion noise assessment are to be submitted to and approved in writing by the local planning authority prior to occupation of each building. Condition 19 of the Extant OPA also requires sound insulation schemes to be submitted to and approved by the local planning authority prior to commencement of above ground works in each phase of the development which will govern external and internal noise levels. Condition 23 of the Extant OPA requires demolition and construction method statements to be submitted prior to commencement of any phase of development. Such statements are required to include a full logistics plan which: demonstrates how the impact of demolition/construction vehicles will be minimised, address measures to control the emission of noise, vibration, dust and dirt, including details for an air quality and dust management plan. Condition 29 of the Extant OPA states the required noise levels to be complied with for any new plant/machinery associated with the development to protect residential amenities.

This property borders the north-west corner of Phase 3B (demolition) and Phase 3C (construction) for which a reserved matters application has been submitted. As mentioned above, this application will require amendment once the Government confirms its proposals for the fire safety (second staircase) regulations.

**12.13 Objection dated 31 August 2022 – 23 Norfolk House, Nelson Grove Road**

**12.13.1 Objection:** *Wishes to claim for loss of light for both the present block constructed on to the South of Nelson Grove Road and the East of Pincott Road as the height, mass and colour has denied spring and autumn light into my kitchen and other west elevation windows, resulting in a need for additional electric lighting. In addition, through the morning through to midday the sun is reflected off a stainless steel chimney pipe into my eyesight through the kitchen window in a direct and blinding way and so I request that the chimney is replaced with a less reflective finish or additional compensation is paid for this disturbance.*

**12.13.2 Response:** The Order proposed to acquire the objector's rights to light over the CPO Land. Further to enhanced due diligence undertaken by the Developer's right of light surveyor and legal representatives, this objector was contacted in May 2023 to confirm that, following a review of legal title, the property did not benefit from rights to light over the development. The Council will therefore not be acquiring any rights relating to this property. Consequently, a letter has been written to the Secretary of State to request that inclusion of this interest is removed from the Schedule to the Order.

**12.13.3 Objection:** *Houses in Dowman Close and Hayward Close are being undervalued for their location compared with other nearby properties in SW19. This also applies to the dwellings on Pincott Road- which while replacements have been indicated to be available the layout of such replacement again is not acceptable.*

**12.13.4 Response:** In line with the CPO Guidance, all valuations are carried out by Chartered Surveyors (a qualified member of the Royal Institution of Chartered Surveyors (RICS)). These valuations are a 'red book' valuation. If a homeowner feels that the valuation is not accurate, the Developer (pursuant to its Residents' Offer) will pay the costs for them to obtain their own 'red book' valuation from a Chartered Surveyor. If there is a difference in the values, then the two surveyors will discuss the evidence of comparable properties and generally come to an agreement. It is important to note that the surrounding streets to High Path are formed of Victorian terraces. Whilst the homes on Hayward Close and Dowman Close may be of a

comparable size, they were constructed significantly later and form part of a social housing estate. Both of these factors reduce the value of the homes when compared to a Victorian terrace.

12.13.5 **Objection:** *Replacement dwellings proposed do not in all cases have such size and layout of accommodation including storage and circulating areas, and separated areas such as kitchens, which the likes of Covid-19 have shown that safe separation within family houses and unnecessary mixing in households and interruptions arising enabling working from home or study at home less practical to carry out. This observation also applies to many of the flat units in Marsh Court and others. Additionally, replacement flats not only are of an inappropriate and undersized layout, but have been built to a means that the likes of storage cupboards or shelves cannot be affixed to walls in reasonable locations.*

12.13.6 **Response:** The proposals for High Path put forward as part of the Extant OPA and the Proposed OPA comprise a sustainable mix of tenure and dwelling types and sizes, that will deliver a wide choice of high-quality homes in accordance with the aims and objectives of local, regional and national planning policies. Any development pursuant to the Extant OPA or the Proposed OPA must be in accordance with the Design Codes submitted as part of the applications, which stipulate that all units must comply minimum space standards within the London Plan.

12.13.7 The Developer has offered (and will continue to offer) a mix of homes, both open plan and with a separate kitchen. Some households prefer an open plan layout as it gives flexibility to the space. All the homes have a significant amount of storage. All existing residents who move into a new home, will be offered a new home which is either the same size or larger than their current home.

12.13.8 **Objection:** *The Council may make a case that replacement properties are more energy efficient than those existing, but no figures as to heat loss through walls or windows as comparatives have ever been provided other than a mention that existing over window lintels are of a design that does not have an insulation sandwich that modern regulations demand – potentially leading to cold bridging – not something that I have noted in the properties fitted with double glazing to be significant problem itself in terms of damp or major additional demand for thermal heating. It should be noted that existing properties are generally double glazed, (or easy to do so at the owner's desire), loft insulated and all were built with brick and block cavity construction with later infill of insulation materials or for*



*flats of a cast in situ concrete with brick sandwich externals (which is the same construction method the replacement flats have generally been made of).*

- 12.13.9 **Response:** There are a range of typologies of homes across the High Path Estate and it is not the case that they are all well insulated. As noted in Section 4.12 of this Statement, both the Ellis & Moore Consulting Engineers report of November 2010 (Document 35) and the Baily Garner LLP report of 2015 (Document 36) highlighted issues with damp and mould as well as cold bridging. The Baily Garner report also noted that residents were raising issues with the sound performance of the buildings. All of these matters are indicative of poor insulation.
- 12.13.10 The new homes in High Path Phases 2 and 3 will be built in line with existing building regulations. The Developer has submitted an Energy Strategy and Sustainability Strategy for both High Path Phases 2 and 3 (Documents 40 and 41). The Extant OPA and the Extant OPA S106 Agreement contain various conditions and obligations to secure sustainability standards in line with national, regional and local policies.
- 12.13.11 **Objection:** *The Council may present a case as to the development enhancement of an area for demolition of houses that are only 40 years old built of substantial brick (and the photographic evidence submitted was deliberately misleading showing “missing” downpipes to building fronts).*
- 12.13.12 **Response:** Section 4 of this Statement sets out the technical studies undertaken in relation to the High Path Estate. Whilst parts of the Estate are only 40 years old, the report identify a number of issues which would need to be addressed to bring the properties up to Decent Homes standard. The general observations found damp and mould issues were present across many blocks. Whilst incremental refurbishment works would improve the internal housing quality in the short to medium term, comprehensive regeneration and redevelopment was determined to be the most effective way of delivering long term sustainable Decent Homes.
- 12.13.13 **Objection:** *The development enhancement of itself can be questioned particularly with the insistence of public transport – which still in terms of work outside the area would depend either on an overcrowded tube line toward central London (which we know from covid and similar contagious diseases with uncertain long term effects, is no longer a good idea, or bus services which are slow to get to other destinations, and of course are inappropriate for the*

*number of workers in the area whom use vans for their building / plumbing / electrical and waste transfer businesses or taxi and vehicle recovery owner businesses that are at present accommodated in the houses sought to be acquired.*

12.13.14 **Response:** The High Path Estate is located in an Area of Intensification within the London Plan and in area with good a level public transport accessibility (PTAL 4-6A). Detailed Transport Assessments of the Scheme for High Path were considered as part of the Extant OPA and the Proposed OPA and were found to acceptable in both instances. Conditions and obligations secure various mitigations and improvements, including highway improvement works, contributions towards bus stop improvement works, on-site cycle parking and car club obligations.

12.13.15 **Objection:** *Present proposals to acquire family (or multiple occupation) housing units for a replacement with large flatted studio/ 1 bed blocks does give rise to the development authority getting a substantial development gain, which my understanding of the compensation system must be fairly and equitably shared with the existing holders of rights of occupation in the land, and this should be made specific in any decision you may come to.*

12.13.16 **Response:** Around 30% of existing tenants are overcrowded. The Developer is replacing all the social rented homes on the Estate as well as offering a replacement home to all resident homeowners who meet the conditions of the Residents Offer and who wish to remain on High Path. This means that the Developer is building a mix of 1, 2, 3 and 4 bed homes for social rent and the private sale blocks are also a mix of 1, 2 & 3 bed homes.

12.13.17 As noted above, the Extant OPA and the Proposed OPA comprise a sustainable mix of tenure and dwelling types and sizes, that will deliver a wide choice of high-quality homes in accordance with the aims and objectives of local, regional and national planning policies.

12.13.18 **Objection:** *It should be noted that present plans appear to be overbearing in height mass and scale along with loss of mature public realm and private garden trees, and also reduce significantly winter light to residential elements of properties on the North of Merton High Street, which are not addressed or mentioned in the Compulsory order sought.*

12.13.19 **Response:** This Order only relates to High Path Phases 2 and 3. Height, mass and scale were considered as part of the Extant OPA in relation to the redevelopment of High Path Phases 2 and 3. The local

planning officers ultimately concluded within the report to the Planning Applications Committee on 8 March 2018 that:

*"The revised plans have been received by the council which show the reduction in heights and visual breaks in the elevations. Officers are therefore satisfied that the development is in line with Policy EPH8 and the other relevant policies of the development plan, and is therefore considered acceptable in this regard".*

12.13.20 Condition 3 of the Extant OPA controls the building heights across the development pursuant to that consent. As noted in this Statement, reserved matters have already been approved for High Path Phase 2. We shall address in evidence why the building heights proposed for the development are considered acceptable.

12.13.21 The Order includes a number of addresses along the north side of Merton High Street as well as properties on Hamilton Road, Hamilton Road Mews and Hardy Road. The Developer has instructed rights of light surveyor to carry out detailed analysis of the impact of the new development on the rights of light of the properties in the surrounding area and is confident that all those affected are included within the Order.

12.13.22 **Objection:** *Where a landowner suffers unnecessary disturbance or other loss of rights (right to light or other enjoyment) they may force the development authority to compulsory purchase their property.*

12.13.23 **Response:** The Council has not received a blight notice or a claim to purchase this property. The Developer has offered this objector a replacement home in Phase 2 (once constructed). Offers have also been made to acquire the property now if the objector wishes to move off the estate. As noted above the property does not benefit from rights to light over the development.

12.13.24 **Objection:** *The site will give rise to development gain and the benefits of this should be shared with existing holders of rights to the land.*

12.13.25 **Response:** As set out in this Statement, the Council considers that the Developer's offers to buy-back properties and rights accord with the CPO Guidance.

12.13.26 **Objection:** *The former leader of the Acquiring Authority indicated during election hustings that the Council was dis-inclined to carry out compulsory purchase orders.*

12.13.27 The Council cannot confirm if any such statements were made by the former leader. The Council has made the Order pursuant to the Cabinet resolution on 21 March 2022, in accordance with its Constitution.

12.13.28 **Objection:** *Notices on the lampposts contained an incorrect email address for the Planning Casework Unit.*

12.13.29 **Response:** The Planning Casework Unit agreed that service of further notices was not necessary as the notices included the Council's email address and other contact details which gave information on how to object to the Order.

#### 12.14 **Objection dated 31 August 2022 – Flat 3, Kent House**

12.14.1 **Objection:** *Concerns that light implications would devalue property but otherwise support the scheme as a benefit to the community*

12.14.2 **Response:** The Developer contacted the objector in January 2023 offering nominal compensation to reflect the de minimis potential impact the regeneration of the High Path Estate would have on this property. The Developer's consultants, Savills, has since been in contact with this objector on numerous occasions since the CPO was made offering to discuss this further. Heads of terms for a deed of release has been issued and several attempts to contact the objector to progress this have since been made, with the last contact being on 21 September 2023 reiterating that any potential interference with rights of light at this property will be de minimis and likely to be imperceptible to the tenants as well as emphasising the benefits of the regeneration of the High Path Estate.

12.14.3 The Developer is hopeful that a voluntary agreement will be reached with the objector before the public inquiry. Notwithstanding this, the Council considers that there is a compelling case in the public interest which outweighs any adverse impact on light to the Property, having due regard to the Scheme and the level of impact on rights of light.

12.15 For the avoidance of doubt, please note that the remaining objectors' names have been removed from this Statement on account of data protection and health and safety concerns.

#### 13 **Details of Contacts for further information**

13.1 Those parties affected by the Order who wish to discuss matters with a representative of the Council and/or the Developer should contact:

13.1.1 For the Council – Simon Hogue at [mertoncpo@merton.gov.uk](mailto:mertoncpo@merton.gov.uk); and

13.1.2 For the Developer – Iona McConnell at  
Iona.McConnell@clarionhg.com.

- 13.2 A copy of the Order, the Order Map, the Appendices to this Statement and other documents may be viewed at:

London Borough of Merton  
Civic Centre  
London Road  
Morden  
SM4 5DX

#### 14 List of Documents

- 14.1 In the event that it becomes necessary to hold a public inquiry into the Order, the Council may refer to the documents listed in the table below. The list is not exhaustive and the Council may also refer to additional documents in order to address any objections made to the Order.
- 14.2 Electronic or hard copies can be provided on request. To request copies please contact Simon Hogue at [mertoncpo@merton.gov.uk](mailto:mertoncpo@merton.gov.uk).

	Document	Date
<b>A - The Order and Accompanying Documents</b>		
1	The Order and Order Schedule	13 June 2022
2	The Order Map	13 June 2022
3	The Statement of Reasons	
<b>B - Plans and Drawings</b>		
4	Indicative Phasing Plan	
5	Estates Plan	
6	Stopping up Plan	
<b>C – Council Reports and Authorisations</b>		
7	London Borough of Merton Cabinet Report	15 January 2018
8	London Borough of Merton Full Council Report	07 February 2018

9	Officer report to Council Planning Committee	08 March 2018
10	London Borough of Merton Full Council Report	02 February 2022
11	London Borough of Merton Cabinet Report	21 March 2022
12	Officer report to Council Planning Committee on 15 June 2023	18 May 2023
<b>D - Planning Permissions and Supporting Documents</b>		
13	High Path Phase 1 Permission (ref: 16/P3738)	05 October 2017
14	High Path Phase 1 Section 106 Agreement	17 October 2017
15	High Path Extant OPA (ref 17/P1721)	29 April 2019
16	Variation to High Path Extant OPA (ref / 21/P1932)	19 July 2019
17	Variation to High Path Extant OPA (ref 21/P2806)	21 January 2022
18	Variation to High Path Extant OPA (ref 22/P1740)	14 October 2022
19	High Path Phase Reserved Matters Approval (ref: 19/P1852)	03 October 2019
20	High Path Phase 2A Reserved Matters Approval (ref: 22/P0085)	31 March 2022
21	High Path Phase 3A Reserved Matters Approval (ref: 22/P2199)	12 December 2022
22	High Path Phase 2A Certificate of Lawfulness (ref: 22/P1653)	13 August 2022
23	Ravensbury Estate Outline Planning Permission Phases 2-4 (ref: 17/P1718)	29 April 2019
24	Ravensbury Estate Phases 2-4 Reserved Matters (ref: 19/P1845)	09 December 2019

25	Eastfields Estate Outline Planning Permission Phases (ref: 17/P1717) as amended by Section 73 application ref: 21/P4078	15 March 2022
26	Eastfields Estate Phase 1 Reserved Matters Approval (ref: 21/P4430)	29 April 2022
27	Section 106 Agreement (the Extant OPA S106 Agreement)	26 April 2019
<b>E - Other Scheme related Documents</b>		
28	The 10 Commitments	September 2014
29	Developers Residents Offer	2023
30	Letter to the Planning Inspectorate – removal of interests from the Order	6 October 2023
31	2015 Housing Needs Study	February 2015
32	Dwelling Condition Assessment	November 2014
33	Accessibility Audit and Appraisal	October 2014
34	Urban Design Review Study	October 2014
35	Ellis and Moore Consulting Engineers Ltd Report	November 2010
36	Condition Survey Report & Life Cycle Cost Analysis - Baily Garner LLP	June 2016
37	Savills Assessment	October 2016
38	Design Code	28 October 2022
39	Equality Impact Assessments	March 2022
40	Energy Strategy	
41	Sustainability Strategy	
<b>E – Objections</b>		
42	Schedule of Withdrawn Objections	

43	Presentation circulated to the objector at 42 Abbey Road	
<b>F - Planning Policy and Guidance Documents</b>		
44	National Planning Policy Framework	September 2023
45	The London Plan	March 2021
46	Core Planning Strategy, Sites and Policies Plan – Merton Council	July 2011
47	South London Waste Plan	March 2012
48	Estates Local Plan	07 February 2018
49	Draft Local Plan – Extract Policies H11.1 and H11.2	Submitted 02 December 2021
50	Mayor of London's Housing Supplementary Planning Guidance	August 2017
51	Decent Homes: Department for Communities and Local Government guidance	
<b>G - Legislation and Guidance</b>		
52	The Town and Country Planning Act 1990 (section 226)	
53	The Town and Country Planning Act 1990 (section 70(2))	
54	The Local Government (Miscellaneous Provisions) Act 1976 (section 13)	
55	Housing and Planning Act 2016 (section 203)	
56	Planning and Compulsory Purchase Act 2004 (section 38(6))	
57	Guidance on Compulsory Purchase and the Crichel Down Rules	July 2019



## Glossary

### Definitions Used in this Statement of Case

**1976 Act:** Local Government (Miscellaneous Provisions) Act 1976;

**1990 Act:** Town & Country Planning Act 1990 (as amended);

**2016 Act:** Housing & Planning Act 2016

**2022 CPOs:** the Order, the Eastfields Order and the Ravensbury Order;

**Council:** the London Borough of Merton;

**Developer:** Clarion Housing Group, formerly Circle Merton Priory Homes and Merton Priory Homes;

**Eastfields Estate:** the Eastfields Estate, Mitcham as shown outlined in red on the Estates' Plan marked "Eastfields Estate";

**Eastfields Order:** the London Borough of Merton (Eastfields No.1) Compulsory Purchase Order 2022;

**Estates:** the Eastfields Estate, the High Path Estate and the Ravensbury Estate;

**Estates' Plan:** the plans showing all three Estates;

**Guidance:** Guidance on Compulsory Purchase and the Crichel Down Rules for the Disposal of Land acquired by, or under the threat of, Compulsion published in July 2019 by the Department for Levelling Up, Housing and Communities;

**High Path Estate:** the High Path Estate, South Wimbledon as shown outlined in red on the Estates' Plan marked "High Path Estate";

**NPPF:** the National Planning Policy Framework, September 2023;

**Order:** the London Borough of Merton (High Path No 1) Compulsory Purchase Order 2022;

**Order Land:** the land included within the Order and is shown on the plans appended to this Statement;

**Phase 1:** the first Phase of the High Path Estate being the land subject to planning permission granted on 5 October 2017 (ref: 16/P3738);

**Phase 2:** the second Phase of the High Path Estate shown indicatively shaded blue on the Phasing Plan;

**Phase 3:** the third Phase of the High Path Estate shown indicatively shaded pink on the Phasing Plan;

**Phase 4:** the fourth Phase of the High Path Estate shown indicatively shaded green on the Phasing Plan;

**Phase 5:** the fifth Phase of the High Path Estate shown indicatively shaded yellow on the Phasing Plan;

**Phase 6:** the sixth Phase of the High Path Estate shown indicatively shaded orange on the Phasing Plan;

**Phase 7:** the seventh Phase of the High Path Estate shown indicatively shaded purple on the Phasing Plan;

**Ravensbury Estate:** the Ravensbury Estate, Morden as shown outlined in red on the Estates' Plan marked "Ravensbury Estate";

**Ravensbury Order:** the London Borough of Merton (Ravensbury No.1) Compulsory Purchase Order 2022; and

**Scheme:** the Developer's proposals for regeneration of the Estates.

## Appendix – Planning Permissions for the Estates

Please see below a summary of the various planning permissions issued to date in respect of each Estate relating to the Scheme.

### 1 High Path Estate

- 1.1 A detailed 'kickstart' permission granted on 5 October 2017 for High Path Phase 1 (reference 16/P3738) for 134 new homes (the **Phase 1 Permission**) (Document 13).
- 1.2 An agreement dated 17 October 2017 pursuant to section 106 of the 1990 Act secured various obligations in relation to the Phase 1 Permission (Document 14). The Phase 1 Permission has been built out in full.
- 1.3 Outline planning permission granted on 29 April 2019 for High Path Phases 2-7 with reference 17/P1721) (Document 15) (subject to variations with references 21/P1932 granted to 19 July 2019 (Document 16), 21/P2806 granted on 21 January 2022 (Document 17) and 22/P1740 granted on 14 October 2022 (Document 18)). The current description of development reads:  
  
*"(with all matters reserved, except in relation to parameter plans) for the comprehensive phased regeneration of High Path Estate comprising demolition of all existing buildings and structures; providing up to 1570 residential units (C3 Use Class); provision of up to 9,900 sqm of commercial and community floorspace (including replacement and new floorspace, comprising: up to 2,700 sqm of Use Class A1 and/or A2, and/or A3 and/or A4 floorspace, up to 4,100 sqm of Use Class B1 (office) floorspace, up to 1,250 sqm of flexible work units (Use Class B1), up to 1,250 sqm of Use Class D1 (Community) floorspace; up to 600 sqm of Use Class D2 (Gym) floorspace); provision of new neighbourhood park and other communal amenity spaces, including children's play space; public realm, landscaping, lighting; cycle parking (including visitor cycle parking) and car parking (including within ground level podiums), associated highways and utilities works".*
- 1.4 As mentioned above the Extant OPA S106 Agreement secured various obligations in relation to the Extant OPA (Document 27). This agreement also secured planning obligations in relation to outline planning permissions granted in respect of the Eastfields and Ravensbury Estates and bound all three estates together in viability terms.
- 1.5 Reserved matters in relation to the Extant OPA have been granted as follows:
  - 1.5.1 reference 19/P1852 for Phase 2 granted on 3 October 2019 for the construction of 113 homes and to which the Order relates (Document 19);

- 1.5.2 reference 22/P0085 for Phase 2A granted on 31 March 2022 for the Nelson Grove Road Garages (Document 20). This permission has been built out; and
- 1.5.3 reference 22/P2199 for Phase 3A granted on 12 December 2022 for the demolition of the existing houses at 50-60 Pincott Road and the provision of a multi-use games court including associated landscaping, lighting and highways work (Document 21).
- 1.6 Phase 2A is now complete and a Certificate of Lawfulness of Existing Development (reference 22/P1653) was granted by the Council on 13 August 2022 confirming the implementation of the Extant OPA (Document 22).
- 1.7 A reserved matters application for Phases 3B and 3C (which will include demolition of the buildings in Phase 4) was validated on 10 January 2023 and allocated reference number 22/P3688 for:
- "Demolition and site clearance and the construction of buildings for residential dwellings (and associated communal open space and play space), non-residential floor space, an energy centre, public open space comprising a new public square, public realm and landscaping works, cycle and car parking spaces together with associated highways and utilities works including underground refuse stores."*
- This reserved matters application will be updated following Government confirmation of the requirements of the fire safety (second staircase) regulations.
- 1.8 The Extant OPA is subject to a pending non-material amendment (reference 23/P0515) to allow for some conditions to be discharged in respect of individual plots, rather than on a phase wise basis.
- 1.9 A new outline planning application for Phases 4 to 7B was submitted and was validated on 18 January 2023 with reference number 22/P3686 for revised proposals for part of the phased regeneration of the High Path Estate comprising demolition of all existing buildings and structures and the erection of buildings to deliver new homes, flexible non-residential floor space (including retail, leisure, business and community uses); provision of public open space (including remainder of neighbourhood park) and other communal amenity spaces including children's play space, public realm, landscaping, lighting, cycle parking and car parking together with associated highways and utilities works. The application relates to phases 4-7B (based on the illustrative phasing) (the **Proposed OPA**).
- 1.10 On 15 June 2023, the Council's Development and Planning Applications Committee unanimously resolved to grant planning permission for the

Proposed OPA subject to conditions and planning obligations being secured.  
The Proposed OPA is now going through GLA Stage 2 review.

- 1.11 A variation of Extant OP A S106 Agreement is currently being negotiated by the Council and the Developer to bind the planning permission to be granted pursuant to the Proposed OPA.

## 2 **Ravensbury Estate:**

- 2.1 Full planning permission was granted on 9 May 2017 for Phase 1 of the Ravensbury Estate (reference: 16/P1968).
- 2.2 Outline planning permission was granted on 29 April 2019 for Phases 2-4 of the Ravensbury Estate regeneration (reference: 17/P1718) (Document 23).
- 2.3 Reserved matters were approved on 9 December 2019 for 179 new homes in Phases 2-4 (reference: 19/P1845) (Document 24).

## 3 **Eastfields Estate:**

- 3.1 Outline planning permission was granted on 29 April 2019 for phases 1-4 of the Eastfields Estate regeneration (reference 17/P1717) (as amended by section 73 application dated 15 March 2022 (reference 21/P4078)) (Document 25).
- 3.2 Reserved matters for Eastfields Phase 1, to which the Eastfields Order relates was granted on 29 April 2022 (reference: 21/P4430) (Document 26).