

**Shropshire Council (Shrewsbury Flaxmill Maltings –  
Redevelopment)  
Compulsory Purchase Order 2019**

**STATEMENT OF REASONS**

**Shropshire Council  
Shirehall  
Abbey Foregate  
Shrewsbury  
Shropshire  
SY2 6ND**

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## 1 INTRODUCTION

### The Order

- 1.1 On **[INSERT DATE]**, Shropshire Council (“**the Council**”), resolved to make the “Shropshire Council (Shrewsbury Flaxmill Maltings – Redevelopment) Compulsory Purchase Order 2019” (“**the Order**”).
- 1.2 The Order has been made pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 (as amended by section 99 of the Planning and Compulsory Purchase Act 2014) (“**the 1990 Act**”) to assemble the land required to deliver a car parking area intended to serve visitors to the Shrewsbury Flaxmill Maltings (“**the Flaxmill**”), together with users of the commercial space to be provided following the Flaxmill’s restoration; a new roadway to provide access for vehicles under the mainline railway (Shrewsbury to Crewe) to the residential properties, greenspace and other roadways beyond; a new cycle way and pedestrian route, and associated drainage and landscaping (“**the Scheme**”).
- 1.3 This document is the Statement of Reasons of the Council for the Order, prepared pursuant to and in accordance with the “Guidance on Compulsory purchase process and The Criche Down Rules” (“**the CPO Guidance**”), issued by The Ministry of Housing, Communities & Local Government in July 2019.
- 1.4 The land proposed to be compulsory acquired pursuant to the Order (which shall be referred to hereinafter as “**the Order Land**”) comprises an access track and grass verge, further details of which are contained in **Section 2** below.
- 1.5 The schedule to the Order (“**the Order Schedule**”) lists the owners, lessees, tenants and occupiers of the Order Land. In addition, the Order Schedule includes details of other parties with a qualifying interest in the Order Land as defined by section 12(2A) of the Acquisition of Land Act 1981, including those with the benefit of rights within the Order Land. The Order Schedule is based on information gathered through a desk top exercise, consisting of index map searches and a review of title information held by the Land Registry, supplemented by site visits to the Order Land and formal requisitions for information issued by the Council pursuant to section 16 of the Local Government (Miscellaneous Provisions) Act 1976. Despite extensive and diligent enquiries having been made, ownership of the Order Land is unknown.
- 1.6 The extent of the Order Land is shown on the map to the Order (“**the Order Map**”), a copy of which is at **Appendix 1**. The land which is proposed to be acquired is shown edged red and shaded pink. Individual plot boundaries and numbers on the Order Map correspond with the plot descriptions referred to in the Order Schedule.

- 1.7 The Council is satisfied that the proposed acquisition of the Order Land will facilitate the carrying out of development, redevelopment or improvement of the Order Land. In considering whether to exercise its powers to make the Order, the Council has had, as is required, regard to section 226(1)(a) of the 1990 Act and considers that the proposed redevelopment will promote and/or improve the economic, social and environmental well-being of the Council's administrative area.

#### The Flaxmill

- 1.8 The Scheme is an integral part of a wider redevelopment project being undertaken at the Flaxmill site. This internationally important site reflects a time when Shropshire led the way in engineering innovation. It comprises 7 listed buildings, including the Main Mill (listed at Grade I), which was built in 1797 (which coincided with the completion of the Shrewsbury and Newport Canal) and, as the world's first iron framed building, is the forerunner of the modern skyscraper. The site was a Flaxmill from 1797 until 1897, and then a Maltings until its closure in 1987.
- 1.9 The Order Land forms part of a larger parcel of land known by the Council and Historic England as the “**railway triangle**”. A location plan showing the Order Land within the context of the railway triangle and the wider Flaxmill site is at **Appendix 2**
- 1.10 In recent history (1987-present), there have been various failed attempts to regenerate the Flaxmill, none of them successfully harnessing the private sector investment required to give the complex of mill buildings a new lease of life. Vandalism and neglect have also taken their toll on the site, which has been on the Heritage at Risk Register for a number of years. An urgent repairs notice was served on the site's then owner in April 2004, thereby forcing a resolution.
- 1.11 Historic England (then English Heritage) acquired the freehold of the Flaxmill site in 2005 in order to halt its further decline. In 2010, The Friends of the Flaxmill Maltings (“**the Friends**”) was formed to support the renovation and regeneration of the Flaxmill while actively engaging the local and wider communities in its objectives. The first stage of the redevelopment project for the site was completed at the end of 2015 with the opening of an interactive visitor experience and education facility, delivered using £1.9 million of funding secured via the European Regional Development Fund. The new visitor centre, which is managed by the Friends, charts the site's history, along with the story of its engineering, architectural and social legacy.
- 1.12 Planning permission and listed building consent for the second stage of works to the Flaxmill was obtained by Historic England in November 2016. For further details, see Section 4 below. The second stage works comprising: the repair and restoration of the Main Mill and Kiln, the reopening of windows to all floors of the Flaxmill, a ground floor interpretation,

learning space and cafe managed by the Friends, and the restoration of the four upper floors of the Flaxmill to create a commercial workspace, are underway. Furthermore, the Scheme is a critical component of the second stage works, however, in order for the Scheme to be delivered, assembly of the Order Land is an absolute necessity.

## 2 THE ORDER LAND

### Description: Location

- 2.1 The Order Land is situated in Ditherington approximately one mile to the north of Shrewsbury Town Centre and is located within the Shrewsbury Town Centre Conservation Area.
- 2.2 The Order Land is bounded to the west by the site of a Severn Trent sewage pumping station, together with two parcels of land, comprising grassed areas, trees and shrubs, such land being within the freehold ownership of Historic England (“the HE Land”), and to the east by the site of the Flaxmill itself. The Shrewsbury to Crewe railway line is located further to the west of the Order Land. Residential properties lie immediately to the north-east of the Order Land (on adopted highway known as Wingfield Close) and to the south (fronting onto adopted highway known as Marshalls Court).
- 2.3 The Order Land is made up of two land parcels, comprising as follows:
- 2.3.1 **Plot 1:** 567 square metres of land, verge and access track being unnamed adopted highway situated east of the railway bridge (carrying the Shrewsbury to Crewe railway line) (“**the railway bridge**”) and adjoining the western side of the Flaxmill site; and
- 2.3.2 **Plot 2:** 1,482, square metres of land, access track and grass verge situated east of the railway line (Shrewsbury to Crewe), west of the Flaxmill site and adjoining Marshalls Court.

### Description: Ownership & Use

- 2.4 The ownership of the land comprised within Plots 1 and 2 is unknown, with neither land parcel being registered at the Land Registry. The majority of the land was previously used as an historic cartway, the width of which has varied over the years. Today the land consists of (i) a gravelled trackway (which is rough and unsurfaced), falling within Plot 2 (“**the Access Track**”), and located along the eastern side of the railway triangle running from Marshalls Court to the railway bridge; and strips of grass verge.
- 2.5 The Access Track passes under the railway bridge and forms the vehicular access to properties located to the north of the Flaxmill (namely: Ruby Cottage and Brookdale) and on the western side of the railway. The Access Track is also used by cyclists and pedestrians to

pass under the railway bridge and to access routes beyond, leading to greenspace and other roadways. At the north end of the Access Track, a set of concrete steps (which are in Historic England ownership) lead to a footpath which connects to Wingfield Close and the residential properties within this area. This 'connecting' pedestrian route is in regular use by members of the public.

- 2.6 The HE Land, located to the west of the Access Track, has been waste ground for many years reverting to scrub, with self-seeded trees and bushes, and accumulating rubbish. In recent years, following the acquisition of the HE Land, Historic England has included the land within a grounds maintenance regime, undertaking an extensive amount of shrub clearance and grass strimming.
- 2.7 All the land within Plot 1, together with the Access Track, was formerly part of the publicly maintainable highway, however, on 25 May 2018, the Secretary of State for Transport made a stopping up order, pursuant to an application received from Historic England, in respect of the Access Track. Accordingly, it no longer forms part of the adopted highway, although the Access Track remains physically open and accessible by all forms of traffic.
- 2.8 As regards the land within Plot 1, it can be split into two distinct parts – the first part forms the end of the Access Track, located at the rear of the Flaxmill site immediately before the railway bridge; the second part is a long strip of grass verge (formerly the historic cartway) running alongside the western side of the Flaxmill site between the outer edge of the Access Track and the Flaxmill site's boundary wall.
- 2.9 It is considered that the Council has undertaken sufficient investigation, via a detailed and comprehensive land referencing exercise, to identify the owner of the Order Land. In order to ensure certainty of the Council's ability to assemble the land required to implement the Scheme within a reasonable timeframe, thereby unlocking the successful delivery of the Flaxmill's redevelopment and its comprehensive restoration, and the very significant public benefits which this redevelopment will give rise to, the Council considers that it must take the necessary steps to make the Order.
- 2.10 The Council has had regard to paragraph 2 of the CPO Guidance which states that whilst compulsory acquisition is intended as a measure of last resort to secure the assembly of all of the land required for the implementation of a scheme or project, it may often be sensible for the acquiring authority to initiate formal procedures and, in parallel, to continue to engage in meaningful negotiations with affected parties.
- 2.11 Should the owner(s) of the Order Land come forward, the Council will treat with them in order to establish whether there is any prospect of the Order Land being acquired by agreement. Furthermore, the Council will continue to engage with the Flaxmill's neighbours and current users of the Access Track in order that they are kept fully informed of (i) the works being

undertaken within the railway triangle; (ii) arrangements for the maintenance of access through this area during the works period; and (iii) the re-provision of access once the works within the railway triangle have been completed.

### **3 THE SCHEME**

3.1 As previously stated, the Scheme is an integral part of a wider redevelopment project being undertaken at the Flaxmill site in order to bring the Main Mill and associated buildings back into beneficial use.

3.2 Planning permission for the redevelopment of the Flaxmill site (comprising an outline planning permission (ref. 10/03237/OUT) and a detailed planning permission and listed building consent (ref. 10/03230/FUL and ref. 10/03233/LBC respectively) for a first phase of development) was first obtained on 4 November 2010 following a masterplan study (undertaken in 2004) which identified the opportunity to greatly improve the site and surrounding environment based upon the acquisition and sympathetic redevelopment of neighbouring sites (“the masterplan consents”).

3.3 The masterplan consents remain extant; however, a series of subsequent planning permissions and listed building consents have been obtained by Historic England and implemented. In particular, the Office and Stable have been renovated to provide a visitor centre (pursuant to planning permission ref. 12/04435/FUL and listed building consent ref. 12/04436/LBC) and the repair and restoration of the Main Mill and Kiln is currently underway. These repair and restoration works constitute a second stage of development, consent for which was obtained on 3 November 2016 (planning permission ref. 16/02872/FUL and listed building consent ref. 16/02873/LBC).

3.4 The detailed planning permission for the “stage 2 project” (referred to hereinafter as “**the Stage 2 Permission**”) comprises the following:

3.4.1 repair and restoration of the Main Mill and Kiln;

3.4.2 reopening of windows to all floors of the Main Mill;

3.4.3 opening of ground floor of the Main Mill and North Engine house to the public, the main visitor space, with an interpretation, learning space (consisting of an engaging and interactive exhibition to learn about the history and significance of the Flaxmill) and a café;

3.4.4 restoration of four upper floors of the Main Mill to provide commercial space (offices and creative light industry) for a maximum of 280 people, the entrance to which will

be taken from the Kiln;

- 3.4.5 provision of services, utilities and access from the upper floors of the North and South Engine houses;
  - 3.4.6 repair and restoration of Jubilee Tower (to be made available for special tours to visiting members of the public, including at roof level); and
  - 3.4.7 fitting out of the Kiln with two 13-person internal lifts and the provision of circulation space for commercial tenants and level access to all floors for visitor tours to the restored Jubilee Tower.
- 3.5 The “stage 2 project” also includes the delivery of the Scheme and improved accessibility across the Flaxmill site. The component parts of the Scheme, as summarised in paragraph 1.2 are:
- 3.5.1 a car parking area comprising 98<sup>1</sup> spaces intended to serve visitors to the Flaxmill (the Main Mill and Kiln), together with the users of the commercial space to be provided following the Flaxmill’s restoration. To provide the necessary security, a system will be installed so that the individual car parking bays can be closed off by lift-out bollards, and a CCTV camera system will also be put in place to enable surveillance of the car park. Furthermore, electric car charging points will be provided;
  - 3.5.2 replacement of the Access Track with a new cycle way and pedestrian route along the eastern side of the railway triangle adjacent to the Flaxmill site’s boundary wall (which route shall be segregated and physically separate from the new roadway (see paragraph 3.5.3));
  - 3.5.3 a new vehicular roadway along the western side of the railway triangle, leading north from Marshalls Court and the access road to the existing Severn Trent sewage pumping station. The new roadway will proceed under the railway bridge and secure continued vehicular access to the residential properties beyond. Maintenance of the new roadway following its construction will be the responsibility of Historic England;
  - 3.5.4 associated drainage and landscaping, including semi-mature tree planting, planting corridors between parking bays and designated green zones. Also, a buffer planting screen is proposed to the residential properties fronting Marshalls Court which are located at the southern end of the proposed car park; and

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<sup>1</sup> The detailed design for the car park, which will be submitted to the Council for approval, shows a total of 103 spaces.



- 3.5.5 a high quality lighting scheme to serve the proposed car parking area, cycle way and pedestrian route and roadway which will extend over the concrete steps leading to the footpath connecting Wingfield Close with the Flaxmill site (these steps are currently unlit).
- 3.6 A general arrangement drawing showing the Scheme is at **Appendix 3**.
- 3.7 The Order Land comprises the minimum land take required to implement the Scheme (noting that delivery of the Scheme will also require the HE Land which is already within the ownership of Historic England).

#### **4 NEED FOR THE ORDER AND THE DELIVERY OF THE SCHEME**

- 4.1 The considerate and comprehensive redevelopment of the Flaxmill site will give rise to the following social, economic and environmental benefits:
- 4.1.1 the delivery of a sustainable heritage-led redevelopment of a Grade 1 listed Mill complex of international significance;
  - 4.1.2 the creation of high quality public realm with a strong connection to the layered history of the Flaxmill site;
  - 4.1.3 the establishment of a major new visitor attraction which will play a central role in preserving and championing the industrial past of the Flaxmill, educating the site's visitors of its historical, architectural and international significance. It is anticipated that the Flaxmill, once restored, will attract in the order of 20,750 visitors per year;
  - 4.1.4 the provision of high quality commercial workspace (office and creative light industrial accommodation) for a maximum of 280 people;
  - 4.1.5 the creation, across the entirety of the Flaxmill site, of circa 1,000 new jobs (taking account of the construction and operational phases of the redevelopment). This includes three Historic England roles (Project Lead, Manager and Co-ordinator) and four Friends roles (Manager, Development Officer, Volunteer Co-ordinator and Administration Assistant). As the "stage 2 project" progresses, Historic England staffing roles will change, with Historic England looking to appoint Estates and Facilities Managers for when the Flaxmill site is occupied and opens fully to the public; and
  - 4.1.6 the contribution of approximately £5.5 million GVA to the local economy, generated by the Flaxmill site's wider development including the delivery of circa 120 new-build residential units.

- 4.2 The Scheme is a key piece in the jigsaw of the redevelopment project for the Flaxmill. It will secure the optimal and effective use of the whole of the land comprised within the railway triangle and is an essential component in ensuring the successful restoration of the Flaxmill and, in particular, the bringing back of the Main Mill building and Kiln into beneficial use.
- 4.3 The delivery of the Scheme will give rise to the following specific benefits:
- 4.3.1 the provision of a car park (98 spaces consented) for visitor and tenant use, an essential planning requirement without which the acceptability of the visitor centre and commercial workspace could not be demonstrated, nor could such uses successfully operate from the Flaxmill site. The location of the car park elsewhere within the Flaxmill site would fundamentally compromise the delivery of the future new build development proposed, as well as the regeneration of the long-disused complex of buildings at the site, including the Dye / Stove House, Cross Mill, Warehouse and Apprentice House – all important and revered buildings on the Heritage at Risk Register;
  - 4.3.2 the provision of a new vehicular roadway leading north from Marshalls Court to the other side of the mainline railway (Shrewsbury to Crewe). The roadway will be tarmac-surfaced and regularly maintained. Furthermore, located to the western side of the railway triangle, the construction of the roadway will result in the physical separation of vehicular traffic from cyclists and pedestrians, thereby giving rise to gains in respect of health and safety and overall amenity;
  - 4.3.3 the creation of a new cycleway running adjacent to the rear wall of the Flaxmill site (on the eastern side of the railway triangle) and which will be a combined cycle / pedestrian route providing a safe way for visitors to access the site from the new car park, as well as the greenspace and footpath routes beyond the Shrewsbury to Crewe mainline railway bridge. Furthermore, pedestrian flow within the railway triangle and pedestrian access to the mill building complex will be improved;
  - 4.3.4 the new combined cycle / pedestrian route will link into the proposed wider cycle and pedestrian network currently being promoted by the Council and the Shropshire Wildlife Trust which is set to accommodate in the order of 10,000 additional users and to create a series of new wildlife corridors; and
  - 4.3.5 an overall improvement in the environment of the railway triangle via the delivery of a high quality landscaping scheme, the provision of lighting within the proposed car park and to all routes including the footpath at the rear of the Flaxmill site connecting to Wingfield Close, and the implementation of a series of security measures, thereby introducing surveillance of and increasing levels of safety within the area.

- 4.4 Safe vehicular, cycle and pedestrian access through the Flaxmill site and, in particular, the railway triangle, will be maintained during the period of construction for the new vehicular roadway and combined cycle way / pedestrian route. Historic England's appointed contractor will be obliged to keep open existing routes until such time as the new roadway and combined cycle way / pedestrian route have been completed and are available for use. As such, it is considered that delivery of the Scheme will not give rise to prejudice, nor cause disadvantage to users of the existing routes – including residents of the properties and visitors to the greenspace located on the other side of the railway bridge and members of the public more generally.
- 4.5 Accordingly, the Scheme will result in a number of very specific public benefits, both in its own right, and as an integral part of the wider redevelopment plans for the Flaxmill site.

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

- 5.1 Account has been taken by the Council of paragraphs 12-15 of the CPO Guidance which set out the fundamental principles that a confirming minister should consider when deciding whether or not to confirm a compulsory purchase order.

### Intended use of the Order Land and the consideration of Alternatives

- 5.2 Paragraph 13 of the CPO Guidance confirms that whilst a confirming minister will not require a particular degree of justification for any specific order:

*“If an acquiring authority does not have a clear idea of how it intends to use the land which it is proposing to acquire; and cannot show that all the necessary resources are likely to be available to achieve that end within a reasonable time-scale, it will be difficult to show conclusively that the compulsory acquisition of the land included in the order is justified in the public interest, at any rate at the time of its making”.*

- 5.3 The Council has a very clear idea of how it intends to use the Order Land, the detail of which is set out in Section 3. Further, and as demonstrated below, the necessary resources (and consents) are in place to enable the Scheme and the wider redevelopment of the Flaxmill site to be delivered within a reasonable timeframe.
- 5.4 Turning to the consideration of alternatives. The Scheme proposes the provision of a car park (98 spaces consented) for visitor and tenant use, an essential planning requirement without which the acceptability of the visitor centre and commercial workspace to be delivered through the “stage 2 project” could not be demonstrated, nor could such uses successfully operate from the Flaxmill site. The location of the car park elsewhere within the Flaxmill site would fundamentally compromise the delivery of the future new build development proposed,

as well as the regeneration of the long-disused complex of buildings at the site, including the Dye / Stove House, Cross Mill, Warehouse and Apprentice House – all important and revered buildings on the Heritage at Risk Register.

- 5.5 Whilst there is an existing car park within the Flaxmill site, to the southern end of Spring Gardens, it is providing visitor parking on a temporary basis only. It is anticipated that, in the future, this car park will be developed for housing as part of the 2004 masterplan. As such, it does not constitute a permanent solution as regards the car parking needs of the Flaxmill's visitors, nor its prospective tenants.

#### Impediments to the Scheme

#### **Resource and Funding Implications of the Scheme**

- 5.6 The funding for the delivery of the “stage 2 project”, including the Scheme, is secured in the main and has been obtained from a variety of sources. The National Lottery Heritage Fund, Historic England and the Council are the primary sources of secured funding – circa £26,247,500.
- 5.7 Alongside this, Historic England have a fundraising target of £1,000,000, 80% of which has already been raised with further opportunities identified via its Philanthropy Team. It is anticipated that these further opportunities will be secured by the end of the construction period in the Summer of 2021. The income and volunteer time of the Friends must also be factored in and equates to circa £1,160,955 of additional funding.
- 5.8 In the circumstances, it is considered that there are no resource or funding impediments to the delivery of the Scheme – the requisite funding has been secured and is immediately available such that the compulsory acquisition proposed by the Order can be completed and the Scheme implemented within a reasonable timeframe, and most certainly within the statutory period following the date on which the Order becomes operative.

#### **Planning Permission and Scheme Delivery**

- 5.9 Paragraph 15 of the CPO Guidance confirms that, in addition to demonstrating that there are no funding related impediments to the delivery of the scheme underpinning a compulsory purchase order, an acquiring authority will also need to be able to show that the scheme is unlikely to be blocked by any physical or legal impediments to implementation.
- 5.10 Any need for planning permission or other consent or licence is amongst the examples given by the CPO Guidance as to what may constitute a legal impediment. As confirmed in section 3, the Council is satisfied that all necessary consents, including planning permission and

listed building consent, have been obtained in respect of the Scheme. Further details of the Scheme's compliance with planning policy are set out in **Appendix 4**.

- 5.11 As regards physical impediments to scheme delivery, there are no programming or accommodation works related issues affecting implementation in this case. It is anticipated that a start on site could be made, assuming the Secretary of State for Housing, Communities and Local Government is minded to confirm the Order, within 3 months (maximum) of the Order becoming operative. This is the minimum period required for acquisition of any remaining third-party land and/or interests in the Order Land following confirmation of the Order.
- 5.12 Historic England's appointed contractor will carry out the Scheme over a circa 6 month period during which the proposed works will be planned and co-ordinated so as to minimise disruption to the adjacent restoration and redevelopment works being undertaken on the Flaxmill site. Furthermore, Historic England's site/project manager, who has been fully involved in the development of the construction programme for the Scheme, will be working to ensure that key milestones within the programme are met.

#### Demonstrating a compelling case in the public interest

- 5.13 Paragraph 12 of the CPO Guidance states that a compulsory purchase order should only be made where there is a compelling case in the public interest. Furthermore, the CPO Guidance directs acquiring authorities to give particular consideration to the rights protected under the European Convention on Human Rights ("**the Convention**") in order that they can be sure that the purposes for which a compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected.
- 5.14 The Human Rights Act 1998 incorporates the rights set out in the Convention into domestic British law – section 6 prohibits public authorities from acting in a way which is incompatible with the Convention and the rights it protects.
- 5.15 The following articles of the Convention are of particular relevance and are accordingly engaged in the process of making a compulsory purchase order:
- 5.15.1 Article 1 of the First Protocol provides as follows: *"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one should be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties"*.

- 5.15.2 Article 6 provides that in determining their civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- 5.15.3 Article 8 protects private and family life, home and correspondence. No public authority can interfere with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
- 5.16 Each of the rights set out within the above-mentioned articles are qualified such that they may be interfered with provided such interference is prescribed by law, is pursuant to a legitimate aim, is necessary in a democratic society and is proportionate. Furthermore, within the context of Article 1 of the First Protocol, the European Court of Human Rights has recognised that regard must be had to the fair balance which is required to be struck between the competing interests of the individual and the community as a whole.
- 5.17 The Order Land does not comprise residential dwellings and therefore the making of the Order will not affect any private, residential interests. Accordingly, it is considered that Article 8 of the Convention is not engaged in this case.
- 5.18 As regards Article 1 of the First Protocol, consideration has been given to the individual rights of those affected by the Order and the wider public interest, together with the fair balance to be struck between these competing interests in the delivery of the Scheme. As set out in Section 4, the Scheme will give rise to a number of very significant public benefits, both in its own right, and as an integral part of the wider redevelopment proposals for the Flaxmill. Given these benefits and the imperative to secure their delivery, the Council considers that the making and subsequent confirmation of the Order would be legitimate, proportionate and justified, such that the Order would not constitute an unlawful interference with the property rights of those affected.
- 5.19 Furthermore, the statutory procedures relating to the making of the Order, which include a right to object, for any objection to be considered by an independent inspector and, where necessary, to be heard through the public inquiry process, together with the right to pursue a legal challenge to a confirmed order, made under the Acquisition of Land Act 1981 and on the relevant statutory grounds, satisfy the requirements of Article 6. Affected persons are also entitled to claim compensation, proportionate to any losses incurred, where their interests within the Order Land have been acquired or where possession of their land has been disturbed as a consequence of the exercise of the Council's powers of compulsory acquisition.

- 5.20 In the absence of the Order, there is no certainty that the Council will be able to assemble the land required to implement the Scheme, thereby jeopardising the delivery of the successful delivery of the Flaxmill's redevelopment and of the associated public benefits. Accordingly, the Council considers there is a compelling case in the public interest for the compulsory acquisition of the Order Land and that, in making the Order, there would be no unlawful interference with the Convention rights set out above.

When should compulsory purchase powers be used?

- 5.21 Paragraph 2 of the CPO Guidance states that:

*"The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement. Where acquiring authorities decide to/arrange to acquire land by agreement, they will pay compensation as if it had been compulsorily purchased, unless the land was already on offer on the open market.*

*Compulsory purchase is intended as a last resort to secure the assembly of all of the land needed for the implementation of projects".*

- 5.22 As previously stated, the Council has made every effort, via a detailed and comprehensive land referencing exercise, to identify the owner of the Order Land. However, the land remains unregistered at the Land Registry and ownership of the land (and the subsoil of those parts of the Order Land which are publicly maintainable highway) is unknown.

- 5.23 The Scheme cannot be delivered, and its benefits realised, unless the entirety of the Order Land is within the control of the Council and/or Historic England. Therefore, the Council is making this Order as a measure of last resort in order to assemble the land needed to implement the Scheme.

- 5.24 The Council will, should the owner(s) of the Order Land come forward, seek to acquire the Order Land by agreement.

## **6 SPECIAL CONSIDERATIONS AFFECTING THE ORDER LAND**

### Historic Environment

- 6.1 The Order Land falls within the Shrewsbury Town Centre Conservation Area. However, it is not considered that the Scheme will negatively impact on the setting of the Conservation Area, nor shall it compromise or offend against the Council's duty in exercise of its planning function to preserve and enhance the character or appearance of the Conservation Area.

- 6.2 The Order Land itself does not comprise any listed buildings or assets, however, the buildings within the adjacent Flaxmill site comprise the following: the Main Mill (Grade 1 Listed); the Cross Mill (Grade 1 Listed); the Warehouse (Grade 1 Listed); the Malt Kiln (Grade 1 Listed); the Apprentice House (Grade 2\* Listed); the Dye / Stove House (Grade 2\* Listed); and the Stable and Office (Grade 2 Listed).
- 6.3 A full Heritage Impact Assessment was submitted in support of the Stage 2 Permission. As part of the determination process, it was concluded that the redevelopment of the railway triangle and the delivery of the Scheme would not adversely impact upon the above-mentioned listed buildings or assets. Historic England's consultation response in respect of the Stage 2 Permission (in its role as statutory consultee) identified some minor visual harm, together with limited physical interventions in the fabric of the Main Mill and Malt Kiln, arising from the proposed works to the buildings themselves. No concerns were expressed as regards the works to be undertaken within the railway triangle.

Special Category Land (Section 18, CPO Guidance)

- 6.4 So far as the Council is aware, no part of the Order Land is owned by another local authority, held by the National Trust inalienably or forms part of a common, open space or fuel or field garden allotment.

Crown Land (Section 20, CPO Guidance)

- 6.5 No part of the Order Land is owned by the Crown, nor is it subject to a Crown interest.

## **7 EQUALITY**

- 7.1 Paragraph 6 of the CPO Guidance states that:

*“All public sector acquiring authorities are bound by the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010. In exercising their compulsory purchase and related powers (eg powers of entry) these acquiring authorities must have regard to the effect of any differential impacts on groups with protected interests.”*

- 7.2 The Council therefore has a statutory duty under section 149 of the Equality Act 2010 (“**the 2010 Act**”) to have due regard to the need to:

- 7.2.1 Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- 7.2.2 Advance equality of opportunity between persons who share a relevant protected



characteristic and persons who do not share it; and

7.2.3 Foster good relations between persons who share a 'relevant protected characteristic' (age, disability, gender reassignment, pregnancy, maternity, race, religion or belief, sex and sexual orientation) and persons who do not share it.

7.3 These are sometimes referred to as the three aims of the general equality duty. The 2010 Act helpfully explains that having due regard for advancing equality involves:

7.3.1 Removing or minimising disadvantages suffered by people due to their protected characteristics;

7.3.2 Taking steps to meet the needs of people from protected groups where these are different from the needs of other people; and

7.3.3 Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

7.4 The 2010 Act states that meeting different needs involves taking steps to take account of disabled people's disabilities. As regards parking provision at the redeveloped Flaxmill, 9 disabled car parking spaces will be provided adjacent to the Visitor Centre. Furthermore, the various components of the Scheme are intended to deliver an improved parking, movement and access strategy for the Flaxmill, so that all members of the public (including tenants) are able to participate in and engage with the site's historic past and its evolving story.

7.5 Accordingly, in promoting the wider Flaxmill redevelopment proposals and, latterly, in formulating the Order, full regard has been had to the Council's statutory obligations under the Equality Act 2010 and, in particular, its duty under section 149.

## **8 EASEMENTS, RIGHTS ETC**

8.1 It is intended that a general vesting declaration(s) will be made by the Council in respect of the Order Land in the event that the Order is confirmed by the Secretary of State for Housing, Communities and Local Government. It is also the intention of the Council that all easements, covenants, rights and other interests in the land included in any such general vesting declaration shall be acquired and/or overridden and compensation paid to those who formerly held the benefit of such easement, right etc.

8.2 Any mortgages or rent charges are to be dealt with in accordance with sections 14 – 17 and section 18 of the Compulsory Purchase Act 1965.

## **9 OTHER CONSENTS REQUIRED**

9.1 No other consents are required to be obtained in connection with the Order.

9.2 As regards the land upon which the new cycle way and pedestrian route is to be located, this land is currently part of the adopted highway. As such, following the construction of the new cycle way / pedestrian route, the Council will take the necessary steps to downgrade the highway status of this land in order that it is limited to use by pedestrians, cyclists and other forms of traffic, save for the car.

## **10 COMPULSORY PURCHASE (INQUIRIES PROCEDURE) RULES 2007**

10.1 This Statement is not intended to be a statement of case under Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007 and the Council reserves the right to alter or expand it as necessary for the purpose of Rule 7.

## **11 INSPECTION OF DOCUMENTS**

11.1 A copy of the Order, the Order Schedule, the Order Map and other supporting documents (see Section 12) may be seen at the Council's offices at Shirehall, Abbey Foregate, Shrewsbury, Shropshire SY2 6ND between the hours of 9am to 5pm Monday to Friday.

## **12 INQUIRY DOCUMENTS**

12.1 The following documents may be referred to or put in evidence in the event of an inquiry:

12.1.1 [DOCUMENT DETAILS TO BE INSERTED]

12.2 They may be inspected at the same venue and times as the Order, the Order Schedule and the Order Map (see paragraph 11.1).

## **13 CONCLUSION**

13.1 In conclusion, for the reasons set out in this Statement, the Council considers that there is a compelling case in the public interest for the compulsory acquisition of the interests referred to in the Order and the Order Schedule.

## APPENDIX 1 – ORDER MAP

## APPENDIX 2 – LOCATION PLAN

**APPENDIX 3 – GENERAL ARRANGEMENT DRAWING: THE SCHEME**

## APPENDIX 4 – PLANNING POLICY CONTEXT