

## Part A

Report to: Cabinet  
Date of meetings: 10<sup>th</sup> March 2014  
Report of: Property Manager  
Title: The Charter Place Redevelopment by Intu

### 1 SUMMARY

- 1.1 This report seeks approval of the Cabinet for the Council to acquire compulsorily, by means of a compulsory purchase order (**CPO**), land, existing rights and interests together with the creation of new rights where agreement cannot be reached in order to implement the Charter Place redevelopment. In addition approval is sought to appropriate the land in the Council's ownership within the scheme for planning purposes so as to override third party rights.
- 1.2 The report also seeks approval for the Managing Director to agree compensation and acquisition payments where this will avoid the need to compulsorily purchase interests.

### 2 RECOMMENDATIONS

- 2.1 That having given consideration to all the provisions of this report, Cabinet resolves to:
- 2.1.1 To make a Compulsory Purchase Order(s) to acquire compulsorily all or part of the land shown edged red coloured pink on the plans (**Order Lands**) attached at Appendix A entitled Map referred to in the Watford Borough Council (Land at Charter Place and High Street, Watford) Compulsory Purchase Order 2014 Plans 1 to 7 of 7 (the **CPO Map**), all rights and interests affecting that land and new rights in respect of all or part of the areas coloured blue on the CPO Map in order to enable the implementation of the Charter Place redevelopment.
- 2.1.2 To delegate to the Managing Director:
- (a) to agree the wording of the Compulsory Purchase Order(s) and CPO Map, including the Statement of Reasons and to take all steps necessary to make and confirm the Order(s); and
  - (b) to take all steps to seek to acquire the necessary interests in land by agreement or by utilising compulsory acquisition powers.
- 2.1.3 If the Secretary of State authorises the Council to do so, confirm any Compulsory Purchase Order(s) made.

- 2.1.4 To authorise the appropriation of the land included in the Plots listed below and shown on the CPO Map under the provisions of Section 122(1) of the Local Government Act 1972 for planning purposes to enable the Council to override third party rights and easements pursuant to Section 237 of the Town and Country Planning Act 1990 as amended:

<b>Level</b>	<b>Plots</b>
Basement	B/1; B/3-B/5; B/7; B/9 –B/25
Mezzanine	M/1
Ground Floor	G/1-G/5; G/7-G/13; G/16-G/18; G/24-G/31; G/39-G/41; G/44-G/58; G/61–G/69; G/85-G/88
1 <sup>st</sup> Floor	1/2-1/10; 1/12; 1/14-1/34
2 <sup>nd</sup> Floor	2/1-2/7
3 <sup>rd</sup> Floor	3/1-3/3
4 <sup>th</sup> Floor	4/1-4/3
5 <sup>th</sup> Floor	5/1-5/5

- 2.1.5 To utilise, where appropriate, either the general vesting declaration procedure under the Compulsory Purchase (Vesting Declarations) Act 1981 or the notice to treat procedure under Section 5 of the Compulsory Purchase Act 1965 in respect of confirmed compulsory purchase order(s).
- 2.1.6 To give authority under Section 6(4) of the Acquisition of Land Act 1981 to dispense with individual service of notices in respect of areas of land where the Council is satisfied that it has not been possible following proper enquiry to establish the ownership of the land in question and for the service of notices in the manner set out in Section 6(4) of the Acquisition of Land Act 1981.
- 2.1.7 That in doing so the Cabinet has considered the provisions of the Human Rights Act 1998 contained in section 12 of this report so far as

they might be applicable in deciding whether or not to make the Compulsory Purchase Order(s) and all other statutory powers that the Council seeks to exercise and resolves the following:

- (a) With regard to Article 8 it is considered that in balancing the rights of the individuals who are affected by the Order(s) against the benefit to the community of proceeding with the Order(s), the making of the Order resulting in the interference with the individuals rights is justified in the interests of improving the economic, environmental and social well-being of the centre of Watford.
- (b) With regard to Article 1 Protocol 1, it is considered that the interference with the individual's property is justified by the advantages accruing to the public by proceeding with the Scheme particularly taking into account the fact that there is a legal right to compensation for the property taken and any rights extinguished under the Order(s).

#### 2.1.8 Contact Officer:

For further information on this report please contact: Linda Newell  
MRICS , Property Manager

Telephone extension: 01923 278216 [Email:  
Linda.Newell@watford.gov.uk](mailto:Linda.Newell@watford.gov.uk)

**Report approved by:** Manny Lewis, Managing Director

### 3 THE PROPOSAL

#### 3.1 Background to the scheme

- 3.1.1 In the Council's adopted Local Plan Core Strategy, Charter Place is located within the primary shopping area of the Town Centre Special Policy Area (**SPA1**). The objectives of the Town Centre SPA are to strengthen and consolidate Watford's position as a regional centre in the retail hierarchy; seek a more balanced provision of town centre facilities and infrastructure, including retail, leisure, entertainment and other town centre uses; seek access improvements for people of all ages, interest and backgrounds; redevelop the existing shopping centre at Charter Place to achieve a net gain in retail floorspace in the order of 10,000m and to create a modern, balanced retail offer for the town centre; and deliver around 3,300-4,200 additional jobs in the wider town centre area (**EMP1**).
- 3.1.2 The Charter Place Planning Brief (**Planning Brief**) was adopted in 2006 and sets out key planning and development principles for the site. It should be noted that the Planning Brief covers an area larger than the current development proposal (principally, the inclusion of

properties at 27-35, High Street and 2-16, Clarendon Road which are not part of the Order Lands).

3.1.3 The proposed scheme incorporates several elements including:

- (a) part demolition/reconfiguration/change of use of existing Charter Place Shopping Centre;
- (b) demolition of 37-57 and 67-69 High Street; and part retention of 63-65 High Street;
- (c) erection of new buildings within use classes A1, A3 and D2 including provision of new covered market, together with associated plant and machinery, and ancillary facilities;
- (d) provision of new public realm;
- (e) facade treatment to existing car park; and
- (f) alterations to existing pedestrian and cycle access and egress arrangements, highway alterations/improvements and other ancillary works and operations.

3.1.4 These details of the scheme (**Scheme**) can be summarised as follows:-

- (a) Demolition of nos. 37, 39, 41, 41a, 43-45, 47-51, 55, 57, 67 and 69, High Street together with the central and rear sections of 63-65, High Street (listed building) with the front facade and roof being retained.
- (b) Demolition of all the internal units at ground and first floor level within Charter Place with the exception of those units sited underneath the Palace Charter car park, the YMCA and the Women's Centre. The public toilets on Grove Walk will also be demolished.
- (c) Stopping up of Meeting Alley and Charter Way (adjacent to HSBC Bank) and formation of new single pedestrian access to the north-west of Meeting Alley leading to a new central public space. The new build elements of the development will be sited to the north-west (Block A) and the south-east (Block B) of this new access.
- (d) Creation of Block A – A mixed-use, multi-storey building comprising 2 storey units fronting High Street rising to 4 storey behind. The 2 storey units comprise 4 restaurants (fronting High Street and the new pedestrian access) with the 4 storey element comprising 2 retail units at ground level, 2 retail units at first floor level (with mezzanines) and a leisure use above.
- (e) Creation of Block B – A mixed-use, multi-storey building comprising 2 and 3 storey units fronting High Street rising to 6 storeys behind. The building comprises 6 restaurants at ground

and first floor (fronting High Street and the new pedestrian access), with 3 retail units fronting the new public space at ground level and 3 retail units at first floor level (with mezzanines). Above these units is the cinema, comprising an Imax screen and 8 other screens (total capacity approx. 1540 seats).

- (f) The existing retail units and indoor Market located underneath Palace Charter car park will be refurbished and reconfigured to form 7 new retail units at ground and first floor levels.
- (g) A new covered market will be constructed off Grove Walk where the existing public toilets and small car park are located.
- (h) The basement service area will be reconfigured to incorporate new retail floorspace in connection with the ground floor retail units.
- (i) The existing Palace Charter car park will be refurbished internally and the external elevations, including the circular exit ramp, will be clad with terracotta batons to screen the existing concrete structure. A new canopy will also be constructed on the Beechen Grove frontage which will support and screen new plant and equipment for the retail units.

3.1.5 The Scheme achieves many of the key planning and development principles set out in the Planning Brief:-

- (a) *New retail floorspace, re-provision of covered market, cinema, improved "town square" and public spaces* – These objectives will be achieved. A new, smaller covered market will be provided off Grove Walk to complement the outdoor market the Council is proposing to provide to the rear of the TJ Hughes site.
- (b) *No additional car parking provision* – This objective is met.
- (c) *Improved accessibility, new pedestrian access from Clarendon Road, enhance YMCA entrance, cycle and motorcycle parking provision, servicing from basement* – Pedestrian access from Beechen Grove and the High Street will be improved as will cycle parking provision for employees and visitors. All servicing will continue from the basement. No pedestrian link from Clarendon Road has been provided as it would prove prohibitively expensive and not viable to acquire properties in third party ownership with no gain in new floorspace. As part of an earlier scheme the formation of a link to Clarendon Road adjacent to The Palace Theatre was proposed. However, on investigation it was found that the change in levels through this part of the site meant that this could not be achieved. No direct works are proposed to the YMCA (which does not form part of the scheme) although the approaches to the entrance through Charter Place and along Grove Walk will be significantly improved.

- (d) *Improved bus facilities, contribution to Urban Traffic Control and Information System, environmental improvements to Ring Road, promoting Green Travel Plan, contributing to achieving sustainable transport objectives* – A number of these improvements have already been undertaken by the County Council. There are no current proposals to undertake environmental improvements to Beechen Grove; however, the proposal does involve a re-cladding of Palace Charter car park which will significantly improve the street scene on Beechen Grove. The applicants will revise and extend their current Travel Plan to include Charter Place and this will promote sustainable modes of travel to employees and visitors. The Borough Council is also currently working with the County Council on a review of subways within the Town Centre.
- (e) *Retention of town centre CCTV control room facility* – The Council is currently in the process of relocating this facility to the Police Station on Shady Lane.
- (f) *Full public access to Charter Place (not enclosed mall)* – This will be achieved. The main public square in the centre of the development will have a high level glazed roof to give weather protection but the centre will not be enclosed. It will remain accessible 24 hours a day.
- (g) *Reprovision of public toilets* – The existing toilets on Grove Walk are not being reprovided. The existing adjoining *intu Watford* centre has public toilets open during shop trading hours and some of the larger retail units in the development are also likely to have customer toilets. During the evening period, the restaurants, cinema and leisure use will also be required to have customer toilets.
- (h) *Retention of Women’s Centre* – This is being retained as existing.
- (i) *Detailed design appraisal* – The scheme has been subject to a formal design appraisal by the South East Regional Design Panel managed by the Kent Architecture Centre.

## 3.2 Need for the scheme

- 3.2.1 The National Planning Policy Framework (**NPPF**) and the Local Plan Core Strategy recognise the need for town centres to accommodate a greater diversity of main town centre uses in order to remain vibrant places for people to visit. Although the focus of town centres will remain comparison goods shopping, it is increasingly recognised that the retail market is undergoing significant changes as a result of the growth of online shopping and other factors and that, in order to remain competitive, town centres need to offer a greater range of services and facilities. Prime amongst these are the growing leisure sectors and the increasing demand for restaurants. The recently completed ‘Met

Quarter' at the junction of High Street and King Street, incorporating 7 new restaurants, has proven to be highly successful and is a good example of the changing demands being placed upon the town centre.

- 3.2.2 The proposed development will strengthen the town centre's comparison goods offer by replacing the many outdated and poorly configured retail units with new retail units that will meet the demands of successful modern retailers in respect of their size, configuration and quality. The units have been designed using the applicant's extensive knowledge of, and experience in meeting, the needs of modern retailers both at *intu Watford* and their portfolio of shopping centres across the country. The units are aimed at comparison goods retailers who are not yet represented in Watford but who would normally be found in a regional centre of this size.
  
  - 3.2.3 The new restaurant units will meet the growing demand for eating out that is evidenced at the 'Met Quarter' and where demand for the new units was high. As with the comparison goods retailers, there are many national restaurant chains that are not represented in Watford but which are normally found in other regional centres. These units, together with the cinema and the other leisure use (not yet defined), will create a new, family orientated evening economy in the centre of town that will complement the Palace Theatre and the 'Met Quarter' and offer a very real alternative to the nightclub culture that exists in the Café Quarter.
  
  - 3.2.4 The proposed development will increase significantly the range and choice of retail, leisure and restaurant facilities in the town and will enhance the vitality and viability of Watford as a regional destination. This will help Watford to compete more effectively with other regional centres such as Milton Keynes, Brent Cross and Westfield Shepherd's Bush and improve its national ranking in the retail hierarchy. (Based on one ranking source, Javelin Venuescore, Watford has dropped from 37<sup>th</sup> in 2008 to 45<sup>th</sup> in 2013). The Council has recognised for many years the importance of redeveloping the increasingly outdated Charter Place. If the current redevelopment proposal does not take place, not only would Charter Place continue to decline and have an increasingly negative impact on the town centre but the town centre as a whole would not benefit from the investment needed for it to remain a vibrant and competitive centre able to meet the changing needs of the public.
- 3.3 Timescale for delivery
- 3.3.1 The intended timescale for delivery is as follows:
    - (a) August 2015 – Commencement of demolition works.

- (b) March 2016 – Commencement of construction works.
- (c) November 2017 – Completion of development.

3.3.2 This timescale will be dependent on the successful confirmation of a Compulsory Purchase Order made by the Council to acquire third party land within the Order Lands. It is therefore recommended that the Council agree that a Compulsory Purchase Order(s) be made in respect of all interests in land within the boundary which is shown edged red and coloured pink in respect of acquisition of land and edged red and coloured blue in respect of acquisition of rights over land on plans 1 to 7 of 7 displayed at the meeting and entitled "Map referred to in The Watford Borough Council (Land at Charter Place, Watford) Compulsory Purchase Order 2014 Plan [x] to 7 of 7" and any other interests within the land outlined on the Map that are deemed necessary to be acquired for the scheme by Officers.

#### 3.4 Appointment of preferred developer

3.4.1 The Council has entered into agreements with WRP Management Limited (WRP) for the redevelopment of the site. WRP is part of the Intu Group which owns and operates the adjoining intu Watford. The Council has granted a temporary lease to WRP for 12 years and entered into an Agreement for Lease for a term of nine hundred and ninety plus years once the development has been completed. As a result WRP is now the immediate landlord for a number of tenants in the scheme and manages the existing Charter Place Centre and Market. The Agreement for Lease is conditional upon the satisfaction of a number of conditions, one of which is the acquisition of all interests in the site with satisfactory title to the extent required for the implementation of the scheme. The Agreement for Lease is also subject to satisfaction of a condition relating to funding and pre-lets. These conditions relate to delivery of the scheme and once thresholds on preletting and funding are achieved those conditions will be met and on satisfaction or waiver of all conditions the development proceeds. The development will be undertaken pursuant to a Licence for Alterations. The Council has an option to acquire freehold properties belonging to WRP along High Street and when acquired either through the option or in the Agreement for Lease, the Council will grant a lease of the whole to WRP.

3.4.2 The Council and Government guidance acknowledges that financial viability may not always be finalised until there is certainty about the necessary land assembly. As a result of the indemnity agreement with WRP Management Limited relating to the redevelopment of the site there is sufficient funding in place to deal with any valid blight notices which may be served on the Council arising from the making of a CPO prior to the satisfaction of other conditions precedent.



## **4 Land assembly and obtaining clean title to the land**

4.1 The land included within the proposed CPO to be compulsorily acquired is shown edged red coloured pink and land over which new rights are sought is edged red coloured blue (referred to as the Order Lands throughout this report). The total area of land to be compulsorily acquired is 19,171 sq m. New rights are sought over 17,832 sq m (total area 37,003 sq m).

### **4.2 Description of the Order Lands**

4.2.1 The Order Lands are located in the centre of Watford in an area known as Charter Place to the north west of the intu Watford Shopping Centre. The extent of the Order Lands required for compulsory acquisition stretch from the intu Watford Centre to the south east to the basement access to the north west behind the Palace Theatre, Beechen Grove to the north and 37-71 High Street to the south. New rights for the benefit of the Scheme are also being sought over 50 – 74 High Street, land to the rear of the Palace Theatre and 2-18 Clarendon Road, 29 to 35 and 73-75 High Street, units 4-12 Charter Place and unit 27 intu Watford.

4.2.2 The Order Map shows that not all the area known as Charter Place is included in within the Order Lands as land to be compulsory acquired. In particular only rights are sought over premises occupied by the YMCA, Woman's Centre, BHS, Centre Style 1 Limited, Tui UK Limited, the Palace Theatre and 29-35 and 73-75 High Street. Existing accesses to and from these premises which are required to pass to and from Beechen Grove and High Street will be retained although the precise routes may vary. There may be temporary disruption to some accesses through Charter Place and to the basement access to the rear of 33-35 High Street however these will be maintained as much as possible and will be where they form emergency access.

4.2.3 New rights are sought over adjoining premises for the purposes of oversailing cranes during the construction period. Rights need to be sought to enable crane jibs to rotate 360° although the majority of movements will be over the development site itself.

4.2.4 The only other right sought over 50-74(even numbers only) on the South side of the High Street is the right to access the properties for the purposes of carrying out non-intrusive surveys.

4.2.5 For the premises abutting the development site to the North West of the scheme on the High Street (G/62 – G/69, G/85 – G/88) additional rights are also sought to carry out the necessary works to integrate the Scheme with these premises which comprises rights:

- (a) to enter and remain on the land and pass and re-pass across the land with or without vehicles, machinery, equipment and materials for all purposes in connection with the construction, maintenance, use, renewal, repair, removal and replacement of land, property and buildings and service media adjacent to or abutting the land;

- (b) to erect, secure and use scaffolding and/or hoardings on the land or land adjoining or abutting the boundaries of the land for the purpose of construction, maintenance and repair of land, structures, and buildings adjacent to or abutting the land;
- (c) to swing the jib of a crane, loaded or unloaded through the airspace over the land/premises;
- (d) to carry out and maintain works to protect and make good buildings on the land, to underpin foundations on the land, to fix claddings to external walls on the land;
- (e) to carry out and maintain boundary treatment works to external walls and boundary structures and to take down and reinstate boundary walls;
- (f) to carry out works to re-grade, resurface and landscape the land and to repair and maintain the land;
- (g) to carry out works to disconnect, alter, divert and reconnect service media in, over or under the land;
- (h) to access alter or replace service or service media;
- (i) to access alter or replace servicing routes (including lifts and load bays) and emergency escape routes;
- (j) to erect scaffolding and temporary hoardings;
- (k) to demolish/partially demolish the boundary/retaining walls as required;
- (l) to construct new boundary/retaining walls as required;
- (m) to clean, improve and repair the exterior of the Premises and maintain and renew such works;
- (n) to undertake the necessary works to the Premises required to complete the scheme;
- (o) to construct new pedestrian accesses and egresses between the properties and the proposed development;
- (p) to construct new vehicular accesses and egresses between the property and the proposed development;
- (q) to carry out works to the entrance doors and surrounding walls, ceilings, floors to Intu Watford shopping centre to connect the proposed development;

- (r) to enter on foot only and temporarily remain on the property for the purposes of and carry out non-intrusive condition surveys.

#### 4.3 Description of interests in the order lands

- 4.3.1 The Order Lands are characterized by a number of buildings varying in size, height, style and appearance. The Order Lands include acquisition of a statutorily listed building at 63-65 High Street, Watford and new rights over 58 and 73 High Street. The Order Lands also include locally listed buildings 37-41a High Street.
  - 4.3.2 The land included in the Order Lands consists of an area known as Charter Place which is predominately a 1970's shopping centre containing retail units and a multi storey car park. Charter Place also includes an indoor market. There is no residential property located with the Order Lands.
  - 4.3.3 Charter Place Shopping Centre, including the indoor market, opened in 1976. A limited scheme of improvements was undertaken by the Council in the early 1990s but the centre remains essentially as originally constructed.
- 4.4 The majority of the Order Lands where land is to be acquired is owned by WBC and leased to WRP but is subject to third party interests. The majority of the third party interests included in the Order Lands are retailers, either multiples like Argos and Wilkinson or independent retailers, particularly within the indoor market area of the Project. There are also food and drink outlets and a financial and professional service unit. WRP has engaged with all affected owners and has already reached agreement with a number of occupiers.
- 4.5 Where WRP is the landlord it has been able to negotiate lease terms to exclude security of tenure under the provisions of the Landlord and Tenant Act 1954 for more recently granted leases. This means that where possible the Council will not need to use CPO powers against those occupiers as their interests will be terminable by WRP as landlord. A similar exercise of engagement has also been undertaken with the market tenants. The Council is also in the process of developing a new market adjacent to the High Street into which some of the traders will be able to relocate. Discussions are continuing with affected traders and terms are being discussed on an individual basis.
- 4.6 Similarly the premises over which new rights are sought are owned/occupied by retailers. The majority of these interests are in third party ownership. The main impact will be during the construction period when the adjoining units are being integrated with the Scheme. For some properties to the south of the High Street the increase in height of the development may cause a reduction in the amount of light received.

- 4.7 In order to ensure that the regeneration of the area and development can take place it will be necessary for the Council to compulsorily acquire the land needed. The land is shown edged red coloured pink on the CPO Map at Appendix A. Cabinet is therefore asked to authorise compulsory purchase of the land and new rights identified on the CPO Map.
- 4.8 The purpose of this CPO would be the delivery of the Scheme to facilitate the carrying out of redevelopment of Charter Place and ensuring that clean title to land can be transferred to the Council and developer in a timely manner, free of encumbrances which could otherwise prevent development. The CPO is also necessary to ensure site assembly in a timely manner.

## **5 Compulsory Purchase Order (CPO)**

- 5.1 The statutory authority for compulsory acquisition is contained within Part IX of the Town and Country Planning Act 1990 (Act). Section 226 (1)(a) of the Act empowers local authorities, on being authorised by the Secretary of State, to acquire land compulsorily if they think that the acquisition will facilitate the carrying out of development, redevelopment or improvement of the land. The Scheme would contribute to the promotion of the environmental, social and economic well being of the Council's area, in accordance with section 226(1A) of the Act because:
- 5.1.1 The Scheme will contribute to and enhance the role of Watford town centre at the top of the regional hierarchy, by promoting a mixed use retail and leisure scheme on this currently under used site in the heart of the primary shopping area. It will create over 1,000 jobs, in addition to 500 temporary construction jobs, which will be available to the local labour market;
- 5.1.2 The Scheme will provide a high quality retail and leisure mixed use development to serve the needs of the local community and visitors to Watford. The development is designed to create a high quality architectural scheme.
- 5.1.3 The Scheme protects and enhances both the natural and built environment. It will be developed to target BREEAM Very Good Standards, and a 10% reduction in carbon dioxide emissions can be achieved through energy efficient design and the provisions of independent servicing for the tenants.
- 5.1.4 The Project represents a scheme where the Council and WRP are working together with a view to re-develop the Order Lands by improving the quality of life of those living, working or otherwise involved in community life of the Charter Place area. The Scheme will bring regeneration to the centre of Watford and promote the urban shopping area.
- 5.2 Under Section 13 of the Local Government (Miscellaneous Provisions) Act 1976, the Council can acquire new rights over land compulsorily. These new rights are being acquired in preference to outright acquisition of the land. This avoids the

need to acquire the freehold of the land where rights are sufficient. The rights sought are required for the following plots:

<b>Level</b>	<b>Plots</b>
Basement	B/10, B/24, B/25
Ground Floor	G/60-G/88
1 <sup>st</sup> Floor	1/28-1/34
2 <sup>nd</sup> Floor	2/6-2/7

### 5.3 Details of attempts to acquire interests by agreement

5.3.1 WRP has been working in partnership with appointed agents DTZ and Lunson Mitchenall to negotiate with those landowners and tenants whose interests will be acquired compulsorily if the CPO is made and confirmed. The agents are seeking to enter agreements to acquire through private treaty wherever possible and have been successful in acquiring a number of interests by agreement.

5.3.2 Whilst the Council is the freehold owner for the majority of the Order Lands and WRP continues to negotiate with third parties to acquire by private treaty, a comprehensive site assembly is required to enable the Scheme to proceed swiftly. Without the use of compulsory purchase powers there is no guarantee that the acquisition of all interests through private treaty could be achieved within the timescales envisaged for the scheme to proceed.

5.3.3 WRP and its agents are continuing discussions with affected parties with a view to securing the acquisition of interests at market value and reducing the number of interests which need to be acquired compulsorily. In addition to writing to all affected parties WRP and its agents will be holding CPO surgeries prior to the making of any Order to assist those who may be affected and ensure contact is made with all parties. Where possible and appropriate WRP and its agents assist those looking for alternative premises and provide guidance on the options available.

5.4 In promoting a compulsory purchase order, acquiring authorities should have regard to government guidance. The relevant government guidance is ODPM Circular 06/04. Matters which must be addressed are:

5.4.1 Authorities should seek to acquire interests by negotiation where practicable. A compulsory purchase order is intended as a last resort in the event that attempts to acquire by agreement fail. A summary of the negotiations with third parties is contained in paragraph 5.3 above.

- 5.4.2 There must be a compelling case in the public interest – as to which see paragraphs 5.1, 5.6 and 5.7.
  - 5.4.3 There must be a clear idea of how the Council intends to use the land and that the necessary resources are likely to be available to achieve that end within a reasonable timescale.
  - 5.4.4 Full details for the funding of the scheme are required including timing – this is covered in section 20 below.
  - 5.4.5 There must be a reasonable prospect of the scheme proceeding and be unlikely to be blocked by impediments to implementation.
- 5.5 A compulsory purchase order can only be made if there is a compelling case in the public interest and that the purposes for the making of the order should sufficiently justify interfering with the human rights of those with an interest in the Order Lands. This is dealt with at paragraphs 5.6 and 5.7 below.
- 5.6 On the basis of the assessment carried out by the Council it must consider that a compelling case exists before a decision is made. Officers have carried out this assessment and are of the view that there is a compelling case in the public interest for the making of the CPO and interfering with the human rights of those affected by the Scheme.
- 5.7 In accordance with the advice contained within the Compulsory Purchase Circular 06/2004 Appendix A the Council has had careful regard to:-
- 5.7.1 the adopted planning framework
  - 5.7.2 the extent to which the Scheme would comply with the Council's statutory requirements to satisfy the well-being test
  - 5.7.3 the financial viability of the Scheme
  - 5.7.4 whether the acquisition could be achieved by any other means
- and is satisfied that the principle of development for the Scheme proposed is established by planning policy, the Scheme would not be blocked by planning problems, that there is a degree of certainty that the Scheme will proceed and that the land comprising the Order Lands is required in order to secure the carrying out of the proposed development, in accordance with section 226(1)(a) of the 1990 Act.
- 5.8 It is not considered that there will be any planning problems preventing the scheme proceeding as on 9<sup>th</sup> January 2014 the Council's Development Control Committee resolved to grant planning permission subject to entering into a s106 agreement. A Unilateral Undertaking was completed on 5 February 2014 and a decision notice has been issued on the same date.
- 5.9 Single unencumbered ownership of the Order Lands is required to enable the development to proceed. Compulsory Purchase will enable redevelopment to take place at an early date by providing certainty for site assembly and

programming and thus enable the Council's policy objectives for the area to be achieved.

- 5.10 The Council through WRP Management Limited and its appointed agents has attempted, and will continue to attempt, to purchase outstanding interests by agreement. Discussions have taken place and are continuing with those affected by the proposals. However, whilst the Council are owners of some of the land, it is not in a position to ensure that it can obtain vacant possession or necessary title of the whole of the Site.
- 5.11 Members should note that a compulsory purchase order can only be made if there is a compelling case in the public interest and that the purposes for the making of the order should sufficiently justify interfering with the human rights of those with an interest in the Order Lands (see sections 10 and 11 below). On the basis of the assessment carried out by the Council it must consider that a compelling case exists before a decision is made and consider the contribution to the economic environmental and social well-being of those who live work and visit Watford which will be made by the Scheme. Officers have carried out this assessment and are of the view that as a result of the economic environmental and social well-being benefits arising from this Scheme for redevelopment there is a compelling case in the public interest for the making of the CPO and interfering with the human rights of those affected by the Scheme.

## **6 Planning Position of the Order Lands**

- 6.1 The planning application was considered by the Development Control Committee at its meeting on 9<sup>th</sup> January 2014 and it was resolved to grant planning permission subject to the developer entering into a planning obligation under section 106 of the Town and Country Planning Act 1990 as amended, by 10 February 2014. The unilateral undertaking was completed on 5 February 2014 and planning permission issued that day. The planning application was accompanied by several in-depth statements explaining how the Scheme complies with planning policy including the Planning Statement, Transport Assessment, Heritage, Townscape and Visual Impact Assessment and Sustainability Strategy (all dated September 2013). A summary of the key policies is set out in paragraphs 6.4-16 below.
- 6.2 As part of the proposed scheme alternations, partial demolition will be required to a Grade II listed building at 63-65 High Street, Watford. An application for listed building consent (Ref No 13/01203/LBC) was submitted and considered in parallel with the planning application. Listed building consent was been granted on 9 January 2014.
- 6.3 The comprehensive redevelopment also includes relocating the market which has been located at various sites within Watford since the 12th Century and has been situated at Charter Place since 1974. A planning application (Ref No 13/01067/FUL) was submitted for a new site for the market to change the use from car parking to a mixed retail use covered outdoor market comprising fixed stalls under a steel and fabric canopy and portable market stalls in High Street, including arrangements for servicing and access from Watford House Lane and Beechen Grove located to the rear of 22-23 The Parade, High Street, Watford,

WD17. On 6 December 2013 planning permission was granted for the new market subject to satisfying conditions.

#### 6.4 Planning Policy Relevant to the Order Lands

6.4.1 The planning policies relevant to the Order Lands and to the scheme are listed below:

##### **National Planning Policy Framework (2012)**

Section 1 Building a strong, competitive economy

Section 2 Ensuring the vitality of town centres

Section 4 Promoting sustainable transport

Section 7 Requiring good design

Section 8 Promoting healthy communities

Section 10 Meeting the challenge of climate change, flooding and coastal change

Section 12 Conserving and enhancing the historic environment

##### **Hertfordshire Waste Core Strategy and Development Management Policies Document 2011-2026**

1 Strategy for the Provision for Waste Management Facilities

1a Presumption in Favour of Sustainable Development

2 Waste Prevention and Reduction

12 Sustainable Design, Construction and Demolition

##### **Hertfordshire Minerals Local Plan Review 2002-2016**

No relevant policies.

##### **Watford Local Plan Core Strategy 2006-31**

WBC1 Presumption in favour of sustainable development

SS1 Spatial Strategy

SPA1 Town Centre



SD1	Sustainable Design
SD2	Water and Wastewater
SD3	Climate Change
SD4	Waste
TLC1	Retail and Commercial Leisure Development
EMP1	Economic Development
T2	Location of New Development
T3	Improving Accessibility
T4	Transport Assessments
INF1	Infrastructure Delivery and Planning Obligations
UD1	Delivering High Quality Design
UD2	Built Heritage Conservation
GI3	Biodiversity

**Watford District Plan 2000 (saved policies)**

SE7	Waste Storage and Recycling in New Development
SE20	Air Quality
SE22	Noise
SE27	Flood Prevention
T10	Cycle Parking Standards
T21	Access and Servicing
T22	Car Parking Standards
S5	Non-Retail Uses in Prime Retail Frontage
S11	Use Class A3 Food and Drink
U15	Buildings of Local Interest
U17	Setting of Conservation Areas
U24	Shopfronts

## **Supplementary Planning Documents**

Charter Place Planning Brief (2006)

Watford Character of Area Study (2011)

Shopfront Design Guide (2013)

Streetscape Design Guide (2013)

Hertfordshire's Local Transport Plan 3 (LTP3)

South West Herts Transport Plan, Hertfordshire County Council (2008)

South West Herts Cycling Strategy, Hertfordshire County Council (2012)

## **Other Planning Documents**

By Design: Urban Design in the Planning System: Towards Better Practice (2000);

Guidelines for Landscape and Visual Impact Assessments (Third Edition) (Landscape Institute, April 2013);

Use of Photography and photomontage in landscape and visual assessment (Advice Note 01/09, Landscape Institute) (2009);

Photography and photomontage in landscape and visual assessment (Advice Note 01/11, Landscape Institute) (2011);

World class places: The Government's strategy for improving quality of place (CLG, May 2009);

Protecting Design Quality in Planning (CABE, 2003)

Urban Design Compendium 1: Urban Design Principle (English Partnerships 2000);

Seeing the History in the View: A Method for Assessing Heritage Significance within Views (English Heritage, May 2011);

The setting of Heritage Assets (English Heritage, October 2011)

The Scheme has been developed with reference to all relevant policies at the national, regional and local level. A summary of how the policies have been applied to the Scheme is set out below:

## **7 National Planning Policy Framework**

- 7.1 The National Planning Policy Framework (NPPF) was published on 27th March 2012 and sets out the Government's planning policies for England and how these are expected to be applied.
- 7.2 The NPPF at paragraph 24 states that main town centre uses such as retail, leisure, entertainment facilities including more intensive sport and recreation uses (including cinemas, restaurants) should be directed to town centre sites in the first instance. Local planning authorities should allocate a range of suitable sites to meet the scale and type of retail and leisure development needed in town centres to promote competitive town centres, customer choice and to plan positively for growth (paragraph 23 NPPF).
- 7.3 The sequential approach indicates that town centre sites are the priority for main town centre uses (paragraph 24 NPPF). The Charter Place proposals are in accordance with a development plan allocation, which seeks to meet objectively assessed needs within a highly sustainable town centre location.
- 7.4 The guiding principle of the NPPF (paragraph 14) is the presumption in favour of sustainable development, and approving development that accords with the development plan without delay. Paragraph 17 indicates that every effort should be made to identify development needs of an area and respond positively to the opportunities for growth.
- 7.5 Paragraph 17 of the NPPF encourages the effective use of land and promotes mixed use developments on land in urban areas. Charter Place is an underused site within the heart of Watford Town Centre. The redevelopment of the Order Lands accords with the NPPF objectives.
- 7.6 Chapter 4 – 'Promoting Sustainable Transport' sets out central government national transport policy. Paragraphs 29 and 30 of the NPPF advise that:
  - 7.6.1 "Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the

need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

7.6.2 Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. In preparing Local Plans, local planning authorities should therefore support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport.”

7.6.3 The town centre location of Charter Place with its existing public transport facilities and opportunities for the use of active modes of transport means that the site is extremely suitable for sustainable development and people have a real choice about how they travel to the Order Lands. No new public parking facilities are proposed to support the increase in floorspace given the excellent public transport facilities already available.

7.7 Paragraph 32 of the NPPF advises that:

- (a) “All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:
- (b) the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- (c) safe and suitable access to the site can be achieved for all people; and
- (d) improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

7.8 The development makes best use of existing transport infrastructure, including existing bus connections and the proximity of rail stations, and the existing parking infrastructure in the town, all of which ensure that safe and suitable access to the development is achieved for all people. The impacts of the scheme are not likely to be significant when considered in the context of the town as a whole.

7.9 Paragraphs 34 - 36 of the NPPF advise that:

- (a) “Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be

minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas.

- (b) Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to:
- (c) accommodate the efficient delivery of goods and supplies;
- (d) give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
- (e) create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
- (f) incorporate facilities for charging plug-in and other ultra-low emission vehicles; and
- (g) consider the needs of people with disabilities by all modes of transport.
- (h) A key tool to facilitate this will be a Travel Plan. All developments which generate significant amounts of movement should be required to provide a Travel Plan.”

7.10 The range of measures incorporated in the scheme shows that:

- (a) Goods and supplies will continue to be accommodated efficiently, and these facilities will be extended to include those units in the scheme that front the High Street;
- (b) The development of the scheme has been based around the need to improve the pedestrian circuit in and through the scheme to link it effectively with neighbouring developments and with bus facilities in the High Street and to minimise street clutter;
- (c) Charging facilities for low emission vehicles are already being progressively installed in the car parks serving the combined shopping centres;
- (d) The needs of disabled users are a key consideration in the development of the scheme and this is described in more detail in the Design and Access statement; and
- (e) A Travel Plan is being actively implemented at the intu Watford shopping centre and this is being further developed and updated and when approved through the normal process will be implemented throughout Charter Place and intu Watford.

- (f) Cycling facilities will be improved with the provision of 18 cycle parking spaces for all users at ground floor level and an additional 108 staff cycle parking spaces in the basement. It is proposed that the staff cycle parking will be monitored by CCTV and on-site management personnel to improve security and safety. Cycle lockers will be available for use and will be monitored by CCTV to enhance security to promote journeys to the site by bike.

7.11 Paragraph 37 of the NPPF states:

- (a) "Planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities."

7.12 The proposals will achieve the better integration of Charter Place within the town centre and with the neighbouring intu Watford shopping centre, providing increased choice within the town and reducing the need to travel further away to more distant attractions.

7.13 At the highest level the National Planning Policy Framework (NPPF) focuses on achieving sustainable development through high quality design, ensuring vitality of town centres, and conserving heritage assets in accordance with their significance.

7.13.1 The importance of good design in achieving sustainable places is emphasized in paragraph 56 of the NPPF. Although paragraph 60 of the NPPF states that architectural styles should not be imposed, regard should be had to the context and reinforce local distinctiveness.

7.13.2 Paragraph 58 states:

- (a) Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics. Planning policies and decisions should aim to ensure that developments:
  - (b) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - (c) establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
  - (d) optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;

- (e) respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- (f) create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
- (g) are visually attractive as a result of good architecture and appropriate landscaping.

7.14 Paragraph 96 of the NPPF states that new developments should comply with local requirements for decentralised energy supply unless it can be demonstrated that this is not feasible or viable and new developments should take into account landform, layout, building orientation, massing and landscaping to minimise energy consumption.

7.15 Whilst the NPPF at paragraph 126 highlights that the conservation of heritage assets can bring wider social, economic and environmental benefits, the importance of assessing the impact of a development on heritage assets is explained in paragraphs 133 – 135 of the NPPF.

7.16 The provisions of the NPPF state that development contributions should be necessary to make the development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development (paragraph 204).

## **8 Government Policy**

### **8.1 UK Government Strategy for Sustainable Development, 1 999, revised 2005**

In 1999, the UK Government published its initial strategy for sustainable development, 'A Better Quality of Life: A Strategy for Sustainable Development in the UK.' This has four main objectives: social progress which recognises the needs of everyone; effective protection of the environment; prudent use of natural resources and maintenance of high and stable levels of economic growth and employment. The Sustainable Development Task Force reviewed this Strategy and a revised UK Government Sustainable Development Strategy, 'Securing the Future', was put into place on 7 March 2 005.

### **8.2 The UK Low Carbon Transition Plan, DECC, 2009**

The UK Government has a 5 point plan to tackle climate change:

- 8.2.1 Protect the public from immediate risk.
- 8.2.2 Preparing for the future.
- 8.2.3 Limiting the severity of future climate change.
- 8.2.4 Building a low carbon UK.

8.2.5 Supporting individuals, businesses and communities.

A specific target is set to reduce CO<sub>2</sub> emissions by 80% by 2050.

**8.3 The UK Air Quality Strategy, 1997, updated 2000, amended 2003, updated 2007**

The updated Air Quality Strategy provides a clear, long-term vision for improving air quality in the UK and offers options for further consideration to reduce the risk to health and the environment from air pollution, and sets objectives for air pollutants to protect health, vegetation and ecosystems.

**8.4 The Waste Strategy for England, May 2007**

This document sets the government's vision for sustainable waste management. Key targets are to:

8.4.1 Decouple waste growth from economic growth and put more emphasis on waste prevention and re-use.

8.4.2 Increase diversion from landfill of non-municipal waste.

8.4.3 Secure the investment in infrastructure needed to divert waste from landfill and for the management of hazardous waste.

8.4.4 Achieve the most environmental benefit from that investment, through increased recycling of resources and recovery of energy from residual waste using a mix of technologies.

**8.5 Delivering a Sustainable Transport System (DaSTS), 2008**

This policy outlines the Department for Transport's five goals for transport which are:

8.5.1 To support national economic competitiveness and growth, by delivering reliable and efficient transport networks.

8.5.2 To reduce transport's emissions of CO<sub>2</sub> and other greenhouse gases, with the desired outcome of tackling climate change.

8.5.3 To contribute to better safety security and health and longer life-expectancy by reducing the risk of death, injury or illness arising from transport and by promoting travel modes that are beneficial to health.

8.5.4 To promote greater equality of opportunity for all citizens, with the desired outcome of achieving a fairer society.

8.5.5 To improve quality of life for transport users and non-transport users and to promote a healthy natural environment.



## **9 National Regulations**

### **9.1 Part L Building Regulations, 2010**

Part L of the Building Regulations 2010, which covers the conservation of fuel and power, came into effect in October 2010. A new iteration of the regulations will be introduced in April 2014 that will be applicable to this development. The exact level of improvement over the 2010 regulations applicable to this development is not yet known but the overall improvement for non-domestic buildings is 9%.

### **9.2 Clean Air Act, 1993**

9.2.1 The release of pollutants to air from biomass combustion is regulated under two main instruments: The Clean Air Act 1993 or Pollution Prevention Control (PPC) Act and their associated regulations. There are a number of CEN standards for the solid fuel heaters and boilers which set out minimum requirements for construction and performance.

9.2.2 The standard BS EN 303 Part 5 applies to biomass fuelled boilers up to 300kW in capacity also allows classification of appliances based on particulate emission standards as well as other measures of combustion quality. In smoke control areas, the Clean Air Act — The Smoke Control Areas (Exempted Fireplaces) (England) Order, 2008 states that unauthorised fuels such as wood fuels may be used if the appliance (stove, burner etc.) is on the Exempt Appliances list, which means that the appliance has been tested and shown capable of burning an unauthorised solid fuel without emitting smoke.

## **10 Local policy**

### **10.1 Watford's Local Plan: Part 1 Core Strategy**

10.1.1 Part 1 of the Core Strategy was adopted in January 2013 and sets out the key elements of the Council's planning vision and spatial strategy for the borough. This document is a plan to guide the development in Watford .

10.1.2 The relevant proposed policies of the Core Strategy are as follows:

#### **10.1.3 Policy WBC1: Presumption in favour of sustainable development**

- (a) When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF). Where such proposals are in line with the Council's Local Plan documents, they will be approved without

delay, unless material considerations indicate otherwise. To find solutions for developments that help improve the economic, social and environmental conditions in the area, the Council will always work proactively with applicants to achieve this. Furthermore, where relevant policies are out of date at the time of making the decision, the Council will grant permission unless material considerations indicate otherwise. The Council will take into consideration whether any adverse impacts of granting planning permission would demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

- (b) Given the three dimensions of sustainable development discussed in paragraph 5.1 above the Scheme is a sustainable development and complies with planning policy. The Council has approved the planning and listed building applications submitted by WRP (see paragraph 6 for further details).

#### 10.1.4 **Policy GI 3: Biodiversity**

- (a) Proposals must seek to conserve and enhance the unique natural landscape, biodiversity and habitat in and around the town, including the protection of County Wildlife Sites and the appropriate management and expansion of wildlife corridors, such as along water courses and railway lines.
- (b) Where appropriate proposals which contribute to the following will be favoured:
- Enhancement of County Wildlife Sites and other green infrastructure assets, including through better management for biodiversity.
  - Improved links between County Wildlife Sites and other important ecological areas identified or endorsed by the Local Nature Partnership, in particular within Key Biodiversity Areas, to provide opportunities for biodiversity gain, by linking habitats to reduce fragmentation and creating corridors allowing response to climate change.
  - Improved quality of urban areas with planting and appropriate management regimes to improve wildlife habitats.
  - Consideration of indirect impacts of development on habitats disturbance and pollution through light, noise or air particles.
- (c) The Order Land is currently fully developed and there are no features of ecological value. It is predicted that the Scheme will not have a negative effect on the biodiversity of the site.

- (d) Areas of landscaping are proposed in order to enhance the urban environment including some 'brown roof' to attenuate rainfall flow from the roofs and increase the ecological value of the site.

10.1.5 The overarching transport objective is to:

- (a) “promote environmentally sustainable movement and to seek to reduce the overall need to travel by integrating land use planning and transportation planning. This will be achieved by:
- (b) Seeking to improve infrastructure at key sites and within SPAs;
- (c) Working to promote travel by means other than the private car and make the most efficient use of existing road space by making best use of intelligent transport systems, i.e. information and communications technology; and
- (d) Working to create a resilient and reliable sustainable transport network across the town.”

10.1.6 **Policy SPA 1:Town Centre**

- (a) The WLP CS identifies a number of Special Policy Areas (SPAs) to which most additional development is directed (Policy SS1).
- (b) Charter Place is located within the Town Centre SPA identified in Policy SPA1 and is specifically identified for redevelopment. The stated objective is to create in the order of 10,000 sq.m of additional Class A1 floorspace to accommodate the need for retail floorspace in the town centre up to 2020. This allocated development site meets an objectively assessed need. GVA undertook the Watford Retail Study on behalf of the Council, which informed the Core Strategy and identified floorspace capacity in Watford Borough. This study was recently updated in 2012 and the comparison good retail floorspace projection for 2002/2021 was 18,035 sq.m net. Policy SPA 1 indicates the additional 10,000 sq.m to be provided at Charter Place is expected to accommodate the need for retail floorspace in the town centre up to 2020. Meeting this identified need is a key benefit of the development proposals.
- (c) The aim is to help strengthen Watford's position in the retail hierarchy as a regional centre. The Scheme, when fully occupied, will increase the amount of Class A1 floorspace by 14,316 sq.m. (gross internal area), exceeding the objectives of Policy SPA 1.

- (d) In the policy the Council commits to working closely with a development partner to successfully deliver a new shopping centre on this site by 2016.
- (e) This policy promotes an indoor market within the development options for Charter Place. The existing market within Charter Place is being relocated by the Council on a car park site adjacent to the former TJ Hughes unit. A smaller market is proposed within the Scheme redevelopment at Charter Place aimed at attracting specialist, niche, independent traders to complement the offer provided by the relocated Market.
- (f) Cumulatively these two markets will have the potential to provide a greater level and range of goods and services to customers, providing wider customer choice and enhancing the vitality and viability of the town centre.

#### 10.1.7 **Policy SD1: Sustainable Design**

- (a) All new development will be expected to comply with the updated national standards on sustainable development, as delivered through the revised standards in the Code for Sustainable Homes and BREEAM standards for non-residential buildings.
- (b) The Council will apply the principles of the Hertfordshire Building Futures Guide:
  - Minimise use and consumption of energy sources including fossil fuels;
  - Minimise the use and consumption of water;
  - Minimise the adverse effects on water quality;
  - Seek design that promotes the most sustainable form of development;
  - Seek design which utilises sustainable construction technologies;
  - Incorporate facilities for recycling of water and waste;

- Include a commitment to climate change adaptation and mitigation that discusses water related adaptation options at design stage;
  - Manage and seek to reduce air, light, soil and noise pollution levels; and
  - Facilitate the remediation of previously contaminated land through development.
- (c) Major development schemes will be expected to adhere to the principles of BREEAM Communities(ii) to incorporate sustainable principles and best practice into the design.
- (d) WRP aims to achieve a BREEAM 2011 'very good' rating, where practicable, for the new build commercial units. The design of the Scheme will aim to minimise the impact of materials on the environment and on building users.

#### 10.1.8 **Policy SD 2: Water and Wastewater**

- (a) The Council aims to minimise water consumption, surface water run-off and non-fluvial flooding whilst also protecting water quality. Policy SD2 requires all new developments to incorporate sustainable drainage facilities.
- (b) To deliver these objectives the Council will work with the Environment Agency, water companies and developers to:
- Ensure all new developments incorporate water conservation measures;
  - Ensure all new developments incorporate sustainable drainage facilities;
  - Safeguard areas for future flood alleviation schemes and use the sequential approach to ensure only appropriate development occurs in the floodplain;
  - Ensure any sewerage network or wastewater treatment works upgrades required to support development are provided ahead of the occupation of development.
- (c) The Scheme aims to be water efficient, incorporating measures to reduce potable water consumption including WCs with dual flush

cisterns and effective flush volume of 4.5litres or less, bathroom taps with a flow rate of 4-6litres/min, and shower flow rates of 9-12 litres/min. Retail units will also be encouraged to be water efficient by specifying water efficient equipment such as dishwashers and washing machines in tenant fit out guides. Water meters on the mains water supply for each commercial unit with water consumption monitoring facilities are also being considered.

- (d) The Scheme also includes a proposal to have an area of Sedum roof to assist with reducing the rate of surface water run-off. Surface water will also be attenuated prior to discharge to the sewer network by using attenuation tanks or geo-cellular storage units.

#### 10.1.9 Policy SD 3: Climate Change

- (a) All new developments (and associated infrastructure) will maximise the use of energy efficiency and energy conservation measures in their design, layout and orientation to reduce the overall energy demand and;
- Reduce CO2 emissions.
  - Mitigate climate change.
  - Adapt to the effects of climate change.
  - Maximise the use of previously developed land and the efficient use of land.
  - In SPAs development will be expected to exceed the Code for Sustainable Homes or BREEAM standard current at the time of application.
- (b) With respect to energy efficiency, designs should be shown to be adaptable over time to enable future retrofitting and refurbishment projects to meet higher energy efficiency standards and to deliver or contribute to networks of decentralised community heating systems.
- (c) As part of the Scheme energy efficient measures will be considered to minimise energy demand including:
- The retail facades will strike a balance between display requirements of tenants, the requirement to insulate the buildings and limit the ingress of excess solar gains;
  - Improvements upon the U-value performance standards of fabrics where beneficial and viable;

- Each building will be designed to include robust building detailing and high quality construction techniques to achieve high standards of air tightness whilst including features to allow natural ventilation where possible;
  - The use of exposed thermal mass where appropriate will be assessed in order to reduce the peak heating and cooling loads
  - Reviewing the set point temperature settings for summer and winter to avoid unnecessary heating and cooling energy requirements
  - Encouraging high efficiency lighting to limit emissions from lighting by using LED lighting, occupancy detection, daylight linked control
  - Reusing waste heat in mechanical ventilation systems and using energy efficient ventilation and cooling systems to reduce energy use and CO2 emissions
  - Installation of solar PV and thermal panels
- (d) The Scheme has the potential to reduce the regulated CO2 emissions by 9% through lean measures.
- (e) WRP is proposing a green building guide that will be distributed to all future tenants to promote the Council's sustainability requirements.

#### 10.1.10 **Policy SD 4: Waste**

- (a) The council will encourage the use of construction and demolition methods that minimise waste generation and reuse/recycle materials as far as practicable on site. The construction and design of new development should demonstrate efforts to minimise waste.
- (b) In addition development proposals should promote well designed and efficient facilities that drive waste management practices up the waste hierarchy.
- (c) The site waste management plan for each phase of construction will define measures for how to minimise the volume of waste arising from demolition and construction activities which is sent to

landfill. The construction waste plan will adopt the approach of 'designing out waste' and hence implementing design, procurement and construction methodologies to reduce waste arising at the construction stage. The reuse of construction waste will be implemented where feasible. Throughout the construction phases non-hazardous construction and demolition waste will be diverted from landfill wherever possible. Subcontractors will be set targets for material waste minimisation, material re-use and recycling.

- (d) Space will be provided in a central location to allow retail tenants to manage their waste. Facilities will be provided to allow for the segregation and storage of recyclable and non-recyclable waste.

#### **10.1.11 Policy EMP: Economic Development**

- (a) Watford as a regional centre is expected to provide at least 7,000 additional jobs between 2006 and 2031, of which around half (3,300 to 4,200) are expected to be provided within the wider town centre. This will include additional jobs in the retail and leisure sectors. The Charter Place development will make a significant contribution to meeting this policy objective. It will provide up to 500 temporary construction jobs during the construction phase. Once completed, the proposed development will provide up to 1,125 additional new jobs across the retail, hospitality and leisure sectors.

#### **10.1.12 Policy TLC 1 – Retail and Commercial Leisure Development**

- (a) The objectives of paragraph 24 of the NPPF is reflected in Policy TLC 1 which confirms that Watford Town Centre will remain the main focus for comparison goods shopping, leisure and entertainment facilities and the majority of additional floorspace will be delivered on sites within the Primary Shopping Area. The mixed uses included in the planning application or the Scheme accord with Policy TLC 1 and assist the Council with achieving the objectives of increasing the night time offerings in the Town Centre which are family friendly, growth in the restaurant/café sector and increasing the number of cinema screens.

#### **10.1.13 Policy T2: Location of New Development**

- (a) New development should be located in close proximity to sustainable transport nodes and local centres or the town centre where facilities can be accessed without the need to travel by private car.
- (b) To be considered accessible by bus services, sites should be within 400m of a bus stop where a frequent bus service operates.



Frequent bus services are considered to be routes where roads are served by 5 or more journeys each way per day Monday to Saturday.

#### 10.1.14 **Policy T4: Improving Accessibility**

- (a) All development proposals will be required to provide access for people with disabilities and to be accessible by all forms of sustainable transport.
- (b) The following modal hierarchy will be applied:
  - Walking
  - Cycling
  - Public transport
  - Cars and other road based vehicles
- (c) All development proposals will be expected to promote smarter travel choices and should be accompanied by a Green Travel Plan

#### 10.1.15 **Policy INF1: Infrastructure Delivery and Planning Obligations Development contributions**

- (a) Policy INF 1 provides guidance on planning obligations. It states that the Council will continue to use planning obligation under Section 106 of the Town and Country Planning Act prior to its Community Infrastructure Levy charge being adopted. Accordingly, development proposals must:
  - Meet the reasonable cost of new infrastructure made necessary by the increased demand arising from the development proposals.
  - Make a positive contribution to safeguarding or creating sustainable communities.
  - Offset any loss of amenity or resource through compensatory provision.
  - Meet any on-going maintenance costs where appropriate.
- (b) As part of securing the planning permission for the Scheme a unilateral undertaking has been provided by WRP to the Council

securing £100,000 towards the cost of environmental improvements in the public realm on High Street.

#### **10.1.16 Core Strategy Policy UD1 (Delivering High Quality Design)**

- (a) This policy states that all new development should respect and enhance the local character of the area in which it is located, recognising and responding to features of historic value. Developments should encourage a mix of uses, create places that are flexible and easy to navigate, and create high quality public spaces and streets.

#### **10.1.17 Core Strategy Policy UD2 (Built Heritage Conservation)**

- (a) This policy states that the borough's historic environment should be conserved and, where appropriate, enhanced. This includes conservation area, listed buildings, locally listed building and their settings.

### **11 Watford District Plan 2000 (saved policies)**

11.1 The Watford District Plan was adopted in December 2003 and has partially been replaced by the Core Strategy but contains a number of saved policies.

11.2 Its primary purposes relevant to the proposed development are to:

11.2.1 "Provide a detailed policy framework to protect and enhance Watford's environment, to meet the development needs of its community and to reconcile potential conflicts between land uses in the public interest in accordance with sustainability principles.

11.2.2 Encourage and guide development to the right locations, encourage economic growth and vitality and to prevent development which is not environmentally, socially and economically sustainable."

11.3 Chapter 4 addresses movement and sets out the following objectives:

11.3.1 "To promote environmentally sustainable movement and to seek ways to reduce the overall need to travel by integrating land use planning and transportation planning.

11.3.2 To seek to improve, in conjunction with all relevant agencies, the environmental quality of transport corridors and increase their safety for all users.

11.3.3 To meet the accessibility needs of all in a safe and sustainable manner.

11.3.4 To improve co-ordination between the complex network of transport providers and facilities.

11.3.5 To accommodate the expected growth in transport need by means other than the car, namely passenger transport, cycling and walking and to encourage the minimal use of cars as a means of transport.

11.3.6 To tackle congestion by influencing demand, integrating services, improving access, developing interchanges, improving neighbourhoods, developing partnerships, increasing awareness, maximising resources and supporting travel choice.”

#### **11.4 Policy U15: Buildings of Local Interest**

11.4.1 This policy states that development affecting the appearance, character or setting of buildings of local interest should ensure that due regard is paid to safeguarding the relevant features of the building and its setting. Proposals that involve the demolition of the building are unlikely to be approved.

#### **11.5 Policy U17: Setting of Conservation Areas**

11.5.1 This policy states that development which adversely affects the setting of a conservation area will be resisted.

#### **11.6 Policy T10: Cycle Parking Standards**

11.6.1 All new development is expected to make convenient, secure and waterproof storage provision for cyclists. The Scheme facilitates cyclists through the provision of cycle parking spaces on site with 18 cycle spaces being provided for all users at ground floor level along the northern frontage of the Order Lands and an additional 108 cycle parking spaces will be within the basement, accessible by a lift to ground floor level. Cycle lockers will be used and will be monitored by CCTV to enhance security to promote cycle journeys to the Order Lands.

### **12 National and Other Guidance**

#### **12.1 By Design: Urban Design in the Planning System: Towards Better Practice (2000)**

12.1.1 By Design promotes higher standards in urban design. It identifies the following urban design objectives:

- (a) Character: To reinforce locally distinctive patterns of development.
- (b) Continuity and Enclosure: To promote continuous street frontages to help to define the public and private realm.
- (c) Quality of Public Realm: To promote safe and attractive routes for all members of society.
- (d) Ease of Movement: To promote accessibility and permeability.

- (e) Legibility: To provide easily recognisable routes, intersections and landmarks.
- (f) Adaptability: A place that can change easily.
- (g) Diversity: Promote choice through a mix of compatible developments.

12.1.2 These translate into the following aspects of urban form. They are used in conjunction with the above as a basis for the assessment of townscape character:

- (a) a Layout: Urban structure and grain
- (b) b Density and mix
- (c) c Scale: Height and mass
- (d) d Appearance: Materials and details
- (e) e Landscape

12.2 The following additional guidance documents have also been reviewed and taken into consideration as part of this assessment summarised in paragraph 12.4-12.6 below:

12.2.1 Guidelines for Landscape and Visual Impact Assessment (Third Edition) (Landscape Institute, April 2013).

12.2.2 Use of Photography and photomontage in landscape and visual assessment (Advice Note 01/09, Landscape Institute).

12.2.3 Photography and photomontage in landscape and visual assessment (Advice Note 01/11, Landscape Institute).

12.2.4 World class places: The Government's strategy for improving quality of place (CLG, May 2009).

12.2.5 Protecting Design Quality in Planning (CABE, 2003).

12.2.6 Urban Design Compendium 1: Urban Design Principles (English Partnerships 2000).

12.3 English Heritage guidance on assessing the impact of new development on views/setting of heritage assets - '*Seeing the History in the View: A Method for Assessing Heritage Significance within Views*' (May 2011). It is complemented by '*The setting of Heritage Assets*' (English Heritage, October 2011) , which provides guidance on managing change within the settings of heritage assets, including archaeological remains and historic buildings, sites, areas, and landscapes.

- 12.4 The Heritage, Townscape and Visual Impact Assessment which accompanied the planning application identifies heritage assets, sets out the methodology for the heritage impact assessment for this project on both the Grade I and Grade II designated heritage assets within and immediately adjacent to the Order Lands and undesignated heritage assets, locally listed buildings and assesses their heritage value.
- 12.5 The assessment concluded that there would be a medium significance to 63-65 High Street (Grade II listed), forming part of the Order Lands due to the partial demolition of the buildings given the significant alterations both internally and externally already albeit some, less than substantial, isolated harm would be caused. The significance of the buildings lies solely in the front elevations of the buildings which will be retained as part of the Project. Similarly the locally listed buildings at 37-41 High Street have already been much altered both internally and externally. The report concluded that the impact of the Project on these locally listed buildings would be of low significance given the wider benefits to the local character, views, and setting of other heritage assets. Furthermore the buildings are not suitable for adaptation to modern retail requirements.
- 12.6 The wider effects on the High Street townscape character and adjacent conservation areas were considered, including Lloyds Bank (Grade II listed), Que Pasa (Grade II listed) HSBC Bank (Grade II listed) and St. Mary's Church (Grade I listed). It was concluded that the Project will have a significant positive impact on the character of the townscape character, application site and its immediate surrounds. A sympathetic approach to the local setting is being taken to the Scheme taking its cues from wider streetscape and adjacent heritage assets, preserving and enhancing the character and appearance of adjacent conservation areas and respecting the local character. The setting of the Grade I listed St Mary's Church will be preserved and not harmed by the development. Therefore the Scheme accords with Policies UD1, UD2, U15, U17 and supplementary guidance.

### **13 Regional policy**

#### **13.1 Hertfordshire's Local Transport Plan 3 (LTP3)**

13.1.1 12.7 Hertfordshire's LTP3 was adopted in April 2011 and sets out HCC's long term vision and strategy for the development of transport. The document sets out five goals which are to:

- (a) • "Support economic development and planned dwelling growth.
- (b) • Improve transport opportunities for all and achieve behavioural change in mode choice.
- (c) • Enhance quality of life, health and the natural, built and historic environment for all Hertfordshire residents.
- (d) • Improve the safety and security of residents and other road users.

- (e) • Reduce transport's contribution to greenhouse gas emissions and improve its resilience."

13.2 With regards to Watford's commitment to working with HCC, the following contribution is set out:

13.2.1 "Improving transport opportunities for all and achieving behavioural change in mode choice:

13.2.2 Improve transport opportunities for all and achieve behavioural change in mode choice working with the County Council and others to deliver the objectives of the South West Herts Transport Plan.

13.2.3 Support major schemes which will improve the resilience of the sustainable transport network and offer better travel choices such as the Croxley Rail Line and Watford Junction interchange. Delivery of the Watford Commuter scheme which aims to work with businesses to promote modal shift and encourage sustainable travel. Operate a parking policy which aims to discourage car use by limiting the availability of town centre parking."

13.3 In relation to pedestrians and cyclists it goes on to state:

"Enhancing the quality of life and the environment: Enhance the quality of life and the healthy natural environment of all Hertfordshire residents by developing action plans for the AQMAs in Watford. This will include a range of measures to reduce congestion. Using our resources to improve cycle and pedestrian routes across the town."

## **14 South West Herts Transport Plan**

14.1 The South West Hertfordshire Transport Plan – Review and Action Plan was adopted in November 2008 and sets out a review of the original transport strategy published some time ago.

14.2 The vision for South West Herts is:

"A sustainable, innovative transport system, that seeks to make travel within the SW Herts area easier through the full utilisation of different transport modes and the better management of the existing network."

## **15 Supporting documents**

15.1 In addition to the above policy guidance, the following supporting documents have also been taken into consideration.

15.1.1 South West Herts Cycling Strategy. Hertfordshire County Council (2012).

- 15.1.2 Watford Town Centre Streetscape Design Guide. Hertfordshire County Council, Watford Borough Council and BDP (2013).
- 15.2 The Charter Place proposals are consistent with all the transport policies in the Core Strategy and District Plan. The Order Lands are located within Watford town centre and is therefore close to transport nodes including bus stops serving a number of bus routes to nearby residential areas in addition to towns further afield. Watford Junction Rail Station is located 750m to the north of the site providing services to London Euston, Midlands and stations on the London Overground line. Watford High Street Station is located 500m to the south west of the Order Lands and is also on the London Overground line.
- 15.3 The Scheme also includes a number of highway improvements along the boundary of the site adjacent to Beechen Grove, clearly demarcating pedestrian routes through the Order Lands to improve pedestrian safety and accessibility. There is also aspiration to promote an improved pedestrian connection across Beechen Grove. Improvements will also enable vehicles to re-join the on-way circulation on Beechen Grove more easily and facilitate cyclists through the provision of cycle parking spaces within the Order Lands. The public realm along the High Street will also be enhanced. By prioritising pedestrian and cycling improvements ahead of public transport and cars/road based vehicles the Project reflects the accessibility hierarchy promoted in Policy T3 of the Core Strategy.
- 15.4 The proposals for continuing to service the development from the internal reconfigured basement, including repositioning of loading bays, will ensure that adequate arrangements are available for servicing vehicles to enter, exit and turnaround within the basement to comply with safety and capacity requirements in Policy T21.
- 15.5 Policy T2 encourages car parking standards and limiting the amount of car parking. The existing car park capacity is acceptable and no additional car parking is proposed as part of the Scheme. The existing facilities will however be enhanced.
- 15.6 Assessments have also concluded that there will only be a 2% or less increase in trips and therefore the Scheme will not adversely affect air quality. The Project is therefore consistent with Policy SE20.
- 15.7 **Policy SE7: Waste Storage, Recovery and Recycling in New Development**
- 15.7.1 All development proposals which are likely to generate waste must have on-site provision for waste collection, source separation, recovery and recycling facilities.
- 15.7.2 Where developments are likely to generate significant waste, regard should be had to existing local facilities, Policy 11 of the Hertfordshire Waste Local Plan and SPG 25 – Litter and Waste Management. Where appropriate consultation with the Hertfordshire County Development Unit may be undertaken and permission may be granted subject to

conditions to seek or enter into a planning obligation with the developer to provide facilities.

15.7.3 The site waste management plan for each phase of construction will define measures for how to minimise the volume of waste arising from demolition and construction activities which is sent to landfill. The construction waste plan will adopt the approach of 'designing out waste' and hence implementing design, procurement and construction methodologies to reduce waste arising at the construction stage. The reuse of construction waste will be implemented where feasible. Throughout the construction phases non-hazardous construction and demolition waste will be diverted from landfill wherever possible. Subcontractors will be set targets for material waste minimisation, material re-use and recycling. The tenants will be responsible for refuse created once the development commences operation and as part of the centre management regime to ensure that waste collection is acceptable in accordance with WDP Policy SE 7.

#### **15.8 Policy SE22: Noise**

Saved Watford District Plan Policy SE22 confirms that the Council will seek to restrict proposals which contribute to excessive noise generation. Unmanned environmental noise surveys have been undertaken to identify the lowest measured background noise levels and incident traffic noise levels. This information will be used to specify plant noise emission limits and establishing sound performance specifications for the external building fabric elements of the Scheme. This will ensure any noise created by the Scheme is acceptable in accordance with Policy SE22.

#### **15.9 WLP SE27: Flood Prevention**

The Council will resist development which has potential to contribute to flood risk and have an adverse impact on river channel instability or damage to wildlife habitats. The Scheme is of a nature that could significantly increase surface water run-off from the area. The flood assessment undertaken concludes that surface water run-off from the Order Lands can be drained in such a way to ensure that flood risk is not increased elsewhere utilizing a proposed strategy. Therefore the assessment concluded that the Scheme is acceptable in flood risk terms.

#### **15.10 Policy S5: Non-Retail Uses in Prime Retail Frontages**

15.10.1 WDP Policy S5 (saved) seeks to maintain a predominance of retail use at ground floor level within prime retail frontages (PRF) and control the mix of uses.

15.10.2 The Planning Statement submitted in support of the application identifies that this policy is dated and successful town centres need to be much more than retail destinations in order to attract customers. The Council aspires to create a family friendly dining and restaurant hub within Watford Town Centre to improve the mix of uses in the town



centre and broaden the town centre's appeal and evening economy, superseding Policy S5.

15.10.3 The proposed cinema and other leisure space will help to anchor the restaurant uses and will provide a vibrant and family daytime and evening economy, increase dwell times and expenditure. These non-retail uses will contribute to a better overall balance in the town centre and is a key benefit of the Scheme. The reconfiguration of the existing retail units will provide modern units that will appeal to many new tenants currently not represented in Watford. The Scheme will increase the amount of Class A1 floorspace of between 10,000 to 14,000 sq.m. when fully occupied. Therefore the Scheme is consistent with the overall objectives and principles of Policy S5 and the Council's latest aspirations.

#### **15.11 Policy S11: Use Class A3 Food and Drink**

15.11.1 WDP Policy S11 states that proposals for a general A3 use will be refused where this will result in the creation of unacceptably high levels of traffic/pedestrian generation, car parking problems, a reduction in highway safety in surrounding areas or where there will be an adverse effect on the amenities of residential occupiers or community safety. In these circumstances, subject to other policies, the Council will give consideration to granting permission for a specific use with Use Class A3, provided that conditions can be imposed which would overcome any potential harm.

15.11.2 The proposed Class A3 uses will not result in the creation of unacceptable high levels of traffic, pedestrian generation or car parking congestion. The leisure and restaurant uses will increase dwell times in the town centre and increase activity in the evenings. Furthermore the Class A3 uses are stated in the NPPF as being acceptable town centre uses (contained in 'Main town centre uses' in Annex 2).

#### **15.12 Policy U24: Shopfronts**

15.12.1 The provisions of the NPPF state that, although visual appearances and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (paragraphs 61 and 64).

15.12.2 This policy supports the NPPF's aspirations for high quality, inclusive design to integrate new developments with the existing environment whilst taking the opportunity to improve the character, the quality of an area and the way it functions by requiring shopfronts to have a high

standard of appearance and associated awnings, roller shutter grilles and signs. New shopfronts should be in keeping with the character of the upper part of the building and relate well to adjoining frontages. Traditional signs and fascias should be preserved wherever possible.

15.12.3 The Scheme has been designed to provide high quality shopfronts to reflect the character of the area to comply with this national and local planning policy aspiration. Individual shopfronts however will be subject to individual tenant requirements and, if required, submission of separate planning applications.

## **16 Overall conclusions**

16.1 The proposed retail and leisure led development at Charter Place is a direct response to local policy objectives seeking to meet objectively assessed needs within a sustainable town centre location. The Scheme will facilitate the transformation and regeneration of this important town centre site.

16.2 The uses proposed are all appropriate town centre uses and, in line with local policy objectives and will enhance the vitality and viability of Watford Town Centre.

16.3 The proposed development will contribute significantly to the Core Strategy policy objective to create up to 4,200 new jobs in the town centre by 2026, by creating up to 1,125 permanent new jobs as well as 500 construction jobs and a further 830 spin-off jobs elsewhere in the region.

16.4 The application proposal accords with the statutory development plan when taken as a whole. Where there are policy conflicts these are minor in nature and have been justified. There are significant benefits arising from the scheme which weigh heavily in its favour.

16.5 There is a presumption in favour of sustainable development. This development will give rise to significant economic, social and environmental benefits within an accessible town centre location and on brownfield land, and it is therefore highly sustainable.

## **17 Appropriation**

17.1 All of the interests in the plots listed in paragraph 2.1.4 above which are not in third party ownership are owned freehold by the Council. Although the Council's interests have been acquired and appropriated for various planning purposes in the past, it is proposed to appropriate the interests for planning purposes to ensure that all the interests held by the Council are held for the redevelopment purposes now proposed.

17.2 The Council can appropriate land for any purpose for which it is authorised to acquire land by agreement. The appropriation process is set out in the Local Government Act 1972. Section 122(1) provides:

17.3 *Subject to the following provisions of this section, a principal Council may appropriate for any purpose for which the Council are authorised by this or any*

*other enactment to acquire land by agreement any land which belongs to the Council and is no longer required for the purpose for which it is held immediately before the appropriation; but the appropriation of land by a Council by virtue of this sub-section shall be subject to the rights of other persons in, over or in respect of the land concerned.*

- 17.4 The Council is a principal Council and so must follow the process set out in Section 122. Cabinet should only resolve and authorise the Council to appropriate land for another purpose if it is satisfied that the land is no longer required for the purpose for which it is held. Whilst the Council currently holds the land for various purposes including planning purposes, it is clearly required for regeneration as set out in the remainder of this report. It should therefore be appropriated for planning purposes prior to its disposal to the Developer.
- 17.5 There are a number of private rights of way and other easements over the Order Lands. Where land is appropriated for planning purposes, the Council may rely upon the provisions of Section 237 of The Town & Country Planning Act 1990. The Council has this statutory power to override easements, rights of way and restrictive covenants affecting land. Section 237 authorises the overriding of any private rights (such as restrictive covenants and including rights of light) affecting the use of land which is held for planning purposes where development is carried out in accordance with planning permission. The power extends not only to development by the local planning authority itself but also to any person deriving title from it. That being so, statutory undertakers are exempt from the provisions of Section 237 such that their rights cannot be overridden.
- 17.6 The ability to interfere with these rights is important in the context of enabling the development to proceed. Whilst the power exists to override such rights it does not prevent such rights being compensated. Section 237(4) of the Town & Country Planning Act 1990 provides that compensation will be payable to those parties whose interests have been affected by the appropriation. The justification for proceeding with any appropriation is set out elsewhere in this report, given the need for comprehensive redevelopment within the relevant plots.

## **18 Land in Unknown Ownership**

- 18.1 The purpose of this part of the report is to inform the Cabinet of the procedure which the Council must follow to deal with unknown ownership on making the Compulsory Purchase Order for the Scheme and to obtain the necessary Council authority to do so.
- 18.2 Section 2 of this report recommends the making of a Compulsory Purchase Order for the Scheme.
- 18.3 The Council's land referencing agents have progressed the necessary investigative work to establish all those ownerships within the boundary of the proposed Compulsory Purchase Order. This is necessary because when serving notices in relation to the Compulsory Purchase Order, the Council is required to send these to all persons owning an interest in the Site.

- 18.4 Section 6(4) of the Acquisition of Land Act 1981 provides that if the Council is satisfied that diligent inquiry has been made and it is not practicable to ascertain the name or address of an owner, lessee or occupier on whom any document has to be served, the document may be served by addressing it to the "owner/lessee/tenant/occupier" and adding a description of the premises and delivering it to some person on the premises.
- 18.5 If there is no person on the premises to whom it may be delivered, then the notice can be served by affixing a copy of it to some conspicuous part of the premises. In adopting this approach the Council must be satisfied that reasonable enquiries have been made to establish ownership.
- 18.6 The Council's land referencing agents have now completed their title investigations. They have confirmed that on behalf of the Council they have made all reasonable enquiries to establish ownership, including the service of notices requiring owners/lessees/tenants and occupiers to give details of ownership; obtaining information from the Land Registry; checking with the Revenue and Benefits Department of the Council; approaching statutory undertakers and enquiring of the Highway Authority.
- 18.7 To proceed with the making of the Compulsory Purchase Order it is necessary for the Council to give authority to dispense with individual service of notice in respect of these areas of land where it has not been possible to ascertain the name or address of an owner, lessee or occupier despite diligent inquiry and to authorise the service of notices in accordance with the provisions of Section 6(4).
- 18.8 The purpose of this paragraph is to deal with land subject to third party rights. As a result of changes to the compulsory purchase procedure following the introduction of the Planning and Compulsory Purchase Act 2004 all parties who have the benefit of rights, easements and covenants in land which is the subject of a compulsory purchase order must be served with notices. Diligent inquiry has been carried out but if there are any parties who have not been notified of the order who are within this category they may still be notified of the order by the posting of notices on site.

## **19 Stopping up orders**

- 19.1 An application for a stopping up order is also being promoted by WRP. On 18 September 2013 an application was made on behalf of WRP to Hertfordshire County Council for parts of Beechen Grove, Meeting Alley and the High Street to be stopped up as follows:

	Max Length (metres)	Max Width (metres)	Terminal Points	
			From	To
1	229.4 (when measured from points A to B – see Terminal Points plan)	59.0 (when measured from points C to D – see Terminal Points plan)	The point at which the walkway through Charter Place meets High Street/Market Place adjacent to the corner of 69 High Street	The point at which Meeting Alley meets High Street/Market Place adjacent to the corner of 57 High Street
2	86.0 (when measured from points E to F – see Terminal Points plan)	18.7 (when measured from points F to G – see Terminal Points plan)	The point at which the alley, adjacent to 45 High Street, meets the High Street.	The rear of 47-51 High Street, including the ramp to the upper level
3	4.5	1.9	The point at which the entrance to 45 High Street meets High Street/Market Place	The entrance to 45 High Street
4	2.0	1.1	The point at which the entrance to 41a High Street meeting High Street/Market Place	The entrance to 41a High Street
5	1.6	1.0	The point at which the entrance to the first floor offices between 41 and 41a High Street meets High Street/Market Place	The entrance to the first floor offices between 41 and 41a High Street
6	4.2	1.0	The point at which the entrance to 41 High Street meets High Street/Market Place	The entrance to 41 High Street
7	1.8	1.6	The point from which the entrance to 39 High Street meets High Street/Market Place	The entrance to 39 High Street

8	15.5 (when measured from points Z to AA – see Terminal Points plan)	12.2 (when measured from points AB to AC – see Terminal Points plan)	Walkway adjacent to 23 Charter Place	Walkway adjacent to the rear of 39 High Street
9	0.3 (x10)	0.3 (x10)	11 areas beneath the canopy over the footway to the south of Beechen Grove	11 areas beneath the canopy over the footway to the south of Beechen Grove
10	68.3 (when measured from points AH to AI – see Terminal Points plan)	24.9 (when measured from points AJ to AK – see Terminal Points plan)	First floor walkway adjacent to 39 Charter Place	First floor walkway adjacent to the corner of 44/45 Charter Place, following the line of the void below
11	20.0 (when measured from points AL to AM – see Terminal Points plan)	16.0 (when measured from points AN to AO – see Terminal Points plan)	Point at which ramp meets roof top area	Roof top area at rear of 47-51 High Street

The objection period has expired and WRP are in discussions with parties who have objected to the application to try to resolve the outstanding objections. In the event that an inquiry is required for this order and for the CPO they will in all likelihood be co-joined

## 20 IMPLICATIONS

### 20.1 Financial

20.1.1 The Council has entered into an Indemnity Agreement with WRP Management Limited for WRP Management Limited to meet all reasonably and properly incurred costs by the Council in connection with the making, confirmation and implementation of the CPO or as a result of acquiring interests required for the Scheme by agreement.

- 20.1.2 The following cost implications arising from acquisition of the interests should be noted:
- (a) the acquisition of land and new rights;
  - (b) overriding of restrictive covenants and other third party rights; and
  - (c) extinguishing rights over land.
- 20.2 As a matter of general principle all costs associated with pursuing a CPO will be met by the acquiring authority. These would include:
- 20.2.1 time spent by Council staff and consultants in progressing the CPO and land referencing;
  - 20.2.2 legal costs of the Council (including any time spent by external Counsel and Legal advisers);
  - 20.2.3 other relevant CPO related costs, including all costs, fees and expenses relating to any public inquiry in respect of the CPO;
  - 20.2.4 payment to include costs and disturbance payments to all affected landowners, lessees or tenants which arise from the CPO and are a natural and reasonable consequence of the interests being acquired; and
  - 20.2.5 compensation payments for any statutory nuisance, severance, injurious affection, interference with, disposal or acquisition of rights or interests, which flow as a consequence of the Scheme.
- 20.3 Once the CPO is made and implemented the Council will be liable to meet statutory compensation claims. Pursuant to the provisions of the Indemnity Agreement referred to at paragraph 20, the Council has the necessary funding in place to cover these costs due to its ability to recover these costs from WRP.
- 20.4 There will be no financial implications for the Council. WRP will set up a bank account in accordance with the terms of the Indemnity Agreement and the Council will make the compensation payments from the funds in this bank account.

## **21 Legal Issues (Monitoring Officer)**

- 21.1 The Human Rights Act 1998 (**HRA**) came into force on 2 October 2000.
- 21.2 Provisions of the HRA which are relevant in relation to the CPO are:
- 21.2.1 The European Convention on Human Rights (the **Convention**) is an international treaty signed under the auspices of the Council of Europe. Whilst the United Kingdom was instrumental in drafting the Convention it was never incorporated into United Kingdom law.

- 21.2.2 The HRA still does not incorporate the Convention into United Kingdom law but what it does is to enable individuals to invoke Convention rights for certain purposes and for certain effects.
- 21.2.3 The main articles of the Convention which are of importance in circumstances where the Council is considering making a compulsory purchase order are Article 8 – the right to respect for private and family life and his/her home and Article 1 of Protocol 1 – the protection of property.
- 21.2.4 In making a CPO an acquiring authority must show that the acquisition is justified in the public interest.
- 21.3 Article 8 is clarified below.
- 21.3.1 Article 8(1) provides that everyone has the right to respect for his/her home but Article 8(2) allows the State to restrict the rights to respect for the home to the extent necessary in a democratic society and for certain listed public interest purposes for example; public safety, economic well being, protection of health and protection of the rights of others.
- 21.3.2 When considering Article 8 in the context of a CPO the Council needs to ask the following questions:
- (a) Firstly, does a right protected by Article 8 apply – to which the answer is "yes".
  - (b) Secondly, has an interference with that right taken place or will take place as a result of the compulsory purchase being made - to which the answer is again "yes".
- 21.3.3 The answers to these two questions being in the affirmative confirms that Article 8 applies and it is therefore necessary to consider the possible justifications for the interference under Article 8(2). There are 3 questions for the Council to consider:
- (a) Firstly, is the interference in accordance with the law? The answer is "yes", there being a legal basis for making the CPO under section 226(1)(a) of the Town and County Planning Act 1990.
  - (b) Secondly, does the interference pursue a legitimate aim? The justification for the CPO is that the scheme seeks to improve the economic, environmental and social well-being of the centre of Watford in the public interest.
  - (c) Thirdly, is the interference necessary in a democratic society? Here the Council must make a balancing judgment between the public interest and the rights of the individual – the CPO must be both necessary and proportionate.



21.4 Article 1 of Protocol 1 provides that:

21.4.1 Every natural or legal person is entitled to the peaceful enjoyment of his possessions.

21.4.2 No one shall be deprived of those possessions except in the public interest and subject to the conditions provided for by law.

21.4.3 However, the above rules shall not prevent a State enforcing such laws as it deems necessary to control the use of property in accordance with the general interest.

21.4.4 The Council must decide in relation to Article 1 whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. The right to compensation is an important factor in considering the balance between the two.

21.5 Recommendations Relating to the Human Rights Act

21.5.1 With regard to Article 8 it is considered that in balancing the rights of the individuals who are affected by the CPO against the benefit to the wider public, economic and social well-being of local residents, visitors and stakeholders of proceeding with the CPO, the making of the CPO and the interference with the individuals rights is justified in the interests of the community in order to effect the improvements.

21.5.2 With regard to Article 1 of Protocol 1, it is considered that the interference with the individual's property is justified by the advantages accruing to the public by proceeding with the works particularly taking into account the fact that there is a legal right to compensation for the property taken and rights extinguished under the CPO.

## **22 Equalities**

22.1 In addition to the HRA, the Council is required to comply with the Equalities Act 2010. Section 149 of the Equalities Act 2010 requires the Council to have due regard to the need to:

22.1.1 Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

22.1.2 Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

22.1.3 Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

22.2 The Council has carried out an equality impact, analysis. This identifies both the negative and positive impacts of the proposals and considers that, overall, the

positive impacts outweigh the negative impacts of the Scheme. In addition, it identifies how any negative impacts might be mitigated and any positive impacts ensured through the delivery of the project.

## 23 Potential Risks for delivering the CPO/vacant possession

Potential Risk	Likelihood	Impact	Overall score
Provide clear evidence of viability and deliverability of the scheme.	1	4	4
CPO procedures not correctly followed. The Council is being advised by Bond Dickinson	1	4	4
Delay in acquisition through negotiations	3	2	6
Cost of acquiring interests increasing	2	4	8
Delay in date of inquiry	2	4	8
Resources not being adequate to deliver the CPO and handle the negotiations.	2	3	6
Cost of acquiring interests increasing	2	4	8

## 24 Sustainability

- 24.1 The planning application was accompanied by a design stage BREEAM pre-assessment which sets out how the proposed development is intended to achieve a rating of 'Very Good'. Condition 10 of the planning permission granted on 10 February 2014 requires details to be submitted to the local planning authority to show how BREEAM very good standard will be achieved and for the development to be carried out in accordance with those approved details. It should be noted that the applicant will only have direct control over those elements of the scheme that comprise the shell and core structure of the development. The individual retail and restaurant units, cinema and leisure use will be fitted out by the individual tenants. This makes a definitive assessment very difficult. However, under the BREEAM assessment scheme there are different mechanisms that can be used for a Shell and Core development. The chosen route of the applicant is to produce a Green Building Guide for Tenants which will set out specific guidance on the measures that the tenants should endeavour to incorporate within their fit-out in order to achieve the credits sought under the assessment. Using this assessment method, the applicant's consultants consider a rating of 'Very Good' can be achieved for the completed development.
- 24.2 An Energy Strategy has also been produced to demonstrate how the proposed development can maximise the use of energy efficiency and energy conservation measures in its design to reduce overall energy demand. Again, this will largely be limited to the shell and core structure of the buildings. In this respect, it is intended that the shell and core structure will incorporate an energy

efficient design ('Be Lean' approach) that will target a reduction in CO2 emissions of approximately 9% below the Building Regulations Part L 2010 in order to comply with the proposed Part L 2014 regulations.

- 24.3 Waste management during the construction and operational phases form part of the BREEAM assessment. During the construction phase, a Site Waste Management Plan will be operated with the aims of reducing waste generation, maximising the levels of recycling both on-site, for re-use, and off-site at recycling centres, and minimising the amount of waste sent to landfill. Once the development is operational, all waste and recycling will be managed through a site wide Delivery and Servicing Management Plan. These measures will accord with the requirements of the County Council's Waste Core Strategy and Development Management Policies.

## **25 Conclusion**

- 25.1 In the light of the above Council is recommended to resolve to make a Compulsory Purchase Order in respect of the land at Charter Place, Watford in accordance with the recommendations at the beginning of this report.

## **26 Appendices**

- 26.1 Appendix A: Draft CPO and CPO Map - will be on display at the meeting.