

WEST NORTHAMPTONSHIRE DEVELOPMENT CORPORATION

THE NUNN MILLS ROAD COMPULSORY PURCHASE ORDER 2010

SECTION 142 OF THE LOCAL GOVERNMENT PLANNING AND LAND ACT 1980

AND

THE ACQUISITION OF LAND ACT 1981

STATEMENT OF REASONS

THE NUNN MILLS ROAD COMPULSORY PURCHASE ORDER 2010

STATEMENT OF REASONS

INTRODUCTION

1. This document is the Statement of Reasons of West Northamptonshire Development Corporation ("the Corporation") for the making of a Compulsory Purchase Order entitled the Nunn Mills Road Compulsory Purchase Order 2010 ("the Order").
2. The Order is made under section 142 of the Local Government Planning and Land Act 1980 ("the 1980 Act") to facilitate the creation of a road to help deliver the redevelopment of land to the south of Bedford Road and east of London Road, Northampton. The land included in the Order is referred to as the "Order Land" and is identified in Plan 1. This statement has been prepared in accordance with paragraphs 35 and 36 and Appendix R of ODPM Circular 06/2004 - Compulsory Purchase and the Crichel Down Rules.
3. The Order has been made by the Corporation to secure the acquisition of the Order Land for the purposes of facilitating the construction of a road from Nunn Mills Road (which lies to the north of the Order Land) through land comprising the former Avon Cosmetics Ltd headquarters and manufacturing plant; over the River Nene; through the former Nunn Mills power station and the adjacent disused industrial estate; over the disused railway land, and connecting with Ransome Road to the south.
4. The construction of the road will facilitate the redevelopment of 41 Hectares of land referred to above, which will be described in this document as "the Avon Nunn Mills Site". As is explained later in this statement, the main landowners of the Avon Nunn Mills Site are collaborating to ensure that the redevelopment of the area is brought forward in a comprehensive and integrated manner.
5. In addition to acquiring the land needed for the road, the Order will, if confirmed, authorise the Corporation to acquire temporary rights for construction space [**and crane oversailing**], and [**permanent rights to widen and improve [or replace?]**] the existing bridges over the River Nene. It is expected that the road will be adopted as a highway maintainable at public expense.

6. The Order is sought because the Corporation wishes to bring forward the development of the Avon Nunn Mills Site in accordance with its objectives in Section 136 of the 1980 Act, namely to secure the regeneration of its area.
7. The redevelopment of the Avon Nunn Mills Site has support in national planning policy, in the saved policies of the Northampton Borough Local Plan and in the emerging local development framework, and the principle of the redevelopment of the area has been established through resolutions to grant planning permission for mixed use, residential, employment and leisure development across the Avon Nunn Mills Site. In addition, detailed planning permission has previously been secured for a road into the Avon Nunn Mills Site from Bedford Road, along part of the alignment of the road now proposed, to facilitate redevelopment. Whilst revisions are needed to the approved design to accommodate the current proposals, it is clear that the principle of a road into the site is acceptable in planning terms.
8. The Corporation is firmly of the view that there is a compelling case in the public interest for it using its powers of compulsory acquisition to facilitate the regeneration of the Avon Nunn Mills Site.
9. The Corporation considers that the regeneration of the Avon Nunn Mills Site is a vital component to meeting its objectives and to providing new prestigious office space and new houses for Northampton. The Corporation has identified in its Business Plan for 2010/2011 the need to assist with the provision of infrastructure and access improvements to enable the Avon Nunn Mills Site to come forward for redevelopment. The Corporation's Business Plan has been submitted for approval to the Department for Communities and Local Government and is awaiting approval by the Minister.

THE CURRENT POSITION

10. The Avon Nunn Mills Site lies to the south east of the Northampton town centre and is bounded to the north by an open car park, Becket's Park and adopted highway known as Nunn Mills Road; to the west it is bounded by residential development and by Cotton End and London Road, and to the south and east it is bounded by Delapre Park and lake, an area of green space with wildlife habitats, and a landscaped and accessible frontage to the river.
11. The Avon Nunn Mills Site essentially comprises three main land parcels, as described below and shown on Plan 2 attached to this statement.

Southern Parcel

12. This lies to the south of the disused railway line which crosses the site, and is bounded to the south by Ransome Road. This land is shown shaded [light brown] on the attached Plan 2, and is owned by the Homes and Communities Agency. It is under-used and unattractive, and a substantial part of the site is former landfill and is contaminated.

The Western Parcel

13. North of the railway line, and west of the existing public footpath along the line of the proposed road, lies the former Avon headquarters and manufacturing site. This site is shown shaded [pink] on the attached Plan 2, and is owned by Avon apart from the headquarters building which has been sold to Mechant Developments [shaded yellow on Plan 2]. The former Avon manufacturing function which was located here has been moved abroad, but Avon have constructed and occupy a new corporate headquarters building on the site.
14. The remainder of the former Avon site comprises unused buildings and vacant land, most of which is currently being demolished. The Western Parcel also includes a Grade II listed engine shed which is likely to be retained in the redevelopment proposals.
15. In the south west of the Western Parcel lies a small area of land off Southbridge Road [shaded light blue on Plan 2] owned by the Corporation. This land was acquired specifically for the purposes of helping to deliver the comprehensive redevelopment of the Avon Nunn Mills Site.

The Eastern Parcel

16. To the north of the disused railway line and east of the existing footpath lies the former Nunn Mills power station and a disused industrial estate. The power station has been decommissioned for some time and the majority of the structures on the eastern parcel have been demolished. All that remains is part of the power station to the northern-most part of this part of the site. An electricity substation is housed on the first floor of this building. A larger substation is also located on the eastern edge of the site. With the exception of the sub stations this area is generally level and comprises a mixture of derelict overgrown land and concrete 'platforms'.
17. This land is shown shaded [purple] on the attached Plan 2, and is owned by George Wimpey East Midlands Ltd and Persimmon Homes Ltd.

The Other parts of the Avon Nunn Mills Site

18. The railway line and former rail lands are owned by Network Rail [shaded green on Plan 2]. The land to the north of the River Nene comprises a car park which is part-owned by the Homes and Communities Agency and leased by Northampton

Borough Council ("the Council"), and part-owned by the Council. There is a small area of land which is located in the land needed for the proposed road which is in unknown ownership. The northern part of the River Nene and its bank, to the east and west of the existing bridge, are also in unknown ownership.

Nunn Mills Road

19. The proposed new road will follow the line of the existing Nunn Mills Road from the point at which it joins Bedford Road. Nunn Mills Road currently runs from Bedford Road into the Avon Nunn Mills Site and is adopted highway for approximately 60 metres from the junction with Bedford Road. It provides access to the surface level car park owned by the Homes and Communities Agency and the Council. The adopted highway terminates shortly after the coach entrance to the car park where it adjoins the existing bridge over the River Nene.
20. The land to the west of Nunn Mills Road, opposite the car park, is an area of open space (Becket's Park) owned and maintained by the Council. Nunn Mills Road continues and bridges over the River Nene and proceeds into the Avon Nunn Mills Site, and this part of the road is owned by Avon. However, from the point at which it passes the new Avon headquarters to the point at which it abuts the disused railway, the ownership of the corridor is unknown. It is known that there are both public and private rights of way running along parts of it.
21. On a continuation from the end of the adopted highway, a public footpath continues in a southerly direction and runs between the Eastern and Western Parcels. It crosses the disused railway and, as it connects with Ransome Road to the south, provides a link into Delapre Park. It is understood that this right of way has historically linked Northampton town centre to Delapre Abbey and Park to the south.
22. Beyond the Avon headquarters, the standard of repair of the footpath deteriorates and it is dominated by weeds and litter. The boundaries of the footpath with the Avon site and the Nunn Mills power station site have been defaced with graffiti.
23. The railway line divides the Southern Parcel from the rest of the Avon Nunn Mills Site. This route is safeguarded, but that designation may change in the future.

THE PLANNING POSITION

24. The redevelopment and regeneration of this part of Northampton is a long-standing objective of the planning authority. The statutory development plan for the area comprises the saved policies of the Northampton Local Plan (June

1997). Policy D17 states: "planning permission will be granted for a mix of residential, business and leisure uses within the Southbridge area and also retail uses at the Power Station site, Nunn Mills, subject to the necessary infrastructure being provided".

25. The supporting text describes the area as being predominantly vacant and derelict. It was recognised that the area presented an opportunity for major regeneration to provide new homes, jobs, leisure and community facilities together with open spaces linking nearby park land and adjacent watercourses. Some retail use was considered appropriate provided it did not compete with existing district centres. It was recognised that road access was poor and that new infrastructure had to be provided as part of the development proposals. It was also recognised that development of the area would be achieved by pooling together private and public sector finance.
26. Since adoption of the Plan a large part of the Southbridge Road area has been developed for residential use and substantially occupied. This area lies to the west of the Avon Nunn Mills Site.
27. In 2002 English Partnerships (the Homes and Communities Agency's predecessor) and the Council signed up to the Northampton Brownfield Initiative which provided for the development of three sites including the Southern Parcel. As a result of the initiative, flood defence works have been carried out which will benefit the Avon Nunn Mills Site.
28. The Northampton Borough Local Plan sets out in a saved policy (D17 – Southbridge Area) that the area presents an opportunity for major regeneration projects to provide new homes, jobs, leisure and community facilities together with landscaped open spaces linking nearby parkland and adjacent watercourses.
29. The West Northamptonshire Emergent Core Strategy (July 2009) published by the West Northamptonshire Joint Planning Unit identifies that the Northampton Central Area will lie at the heart of a new city and will serve as the economic and cultural hub for the County. The West Northamptonshire Strategic Housing Land Availability Assessment highlighted the potential for major housing development at the Site, identifying 1250 units north of the railway and 800 south of the railway, whilst recognising the need for infrastructure to meet the physical challenges posed by such development. The West Northamptonshire Strategic Employment Land Assessment also identified the Avon Nunn Mills Site as a Potential Strategic Employment Site as part of Northampton town centre.
30. The Northampton Central Area Action Plan Emerging Strategy (July 2009) sets the most recent planning policy context for Northampton Town Centre. The Avon Nunn Mills site falls within the boundary of the area that is considered by the Central Area Action Plan. It identifies the objectives for the Avon Nunn Mills Site

as being to provide 1,250 dwellings and 17,500 sq m of business space (B1) in addition to the Avon headquarters; an extended electrical transformer site; a neighbourhood retail centre; play areas with links to the nearby open space and recreation areas; a combined heat and power plant, and transport and highway improvements.

31. As can be seen, the principle of a significant and comprehensive redevelopment of the Avon Nunn Mills Site is firmly established in planning policy and in key documents supporting that policy, and has been for a long time. Various planning applications have been submitted by parties over time in attempts to bring forward the area for development, and key applications are considered below.
32. An outline planning application was submitted in 2004 to Northampton Borough Council (reference N/2004/0265) for a mixed use development of both the Eastern and Western Parcels incorporating residential, community facilities, local leisure and retail centre, access arrangements at Bedford Road and a new Southbridge Road with associated works. It included an access road approximately along the line of the Order Land to link with the land to the south of the railway. The Council resolved to grant permission for the scheme subject to completion of a section 106 agreement.
33. In 2006 the Corporation were given development control functions for certain types of application, and the above application was considered by the Corporation (under reference WN2006/0014). The Corporation also resolved to grant permission subject to the completion of a section 106 agreement.
34. In 2004, an application was submitted to the Council by English Partnerships and Network Rail for a mixed use scheme in the Southern Parcel Following it gaining planning powers in 2006, the Corporation resolved to grant permission subject to a section 106 agreement. On the 14th September 2010 the Corporation's Northampton Area Planning Committee was minded to grant the planning application (REF 06/0016/OUTWNN) subject to the completion of a section 106 agreement and other technical matters. The application was for a mixed use scheme comprising 800 dwellings, the retention of the railway line, and a new bridge over the tracks and adjacent water courses. This would provide connections between the that site and the land to the north of the railway.
35. In 2007 a detailed application was submitted by George Wimpey to the Corporation to create an access road into its site from Bedford Road (reference 07/0406/FULWNN). The road would facilitate access to the Avon headquarters and would proceed into the Avon Nunn Mills Site, broadly along the line of, and wholly within, the Order Land. However, it did not extend to connect with the Southern Parcel. It would not, therefore, deliver the optimum regeneration capacity of the Avon Nunn Mills Site. Planning permission was granted for this

access road by the Corporation in December 2008 although it has not been implemented.

36. It can be seen that as well as there being an established and long-standing planning policy objective to redeveloping the Avon Nunn Mills Site, a number of schemes have been approved in principle by the Council and (following it gaining its development control function) the Corporation.
37. It is also clear that the redevelopment of this previously-developed area, being close to the town centre, and capable of being well served by public transport, would comply with important aspects of national planning policy.
38. Turning to the Order Land, it is clear that there should be no impediments to the grant of planning permission for the road. The principle of development for which the road is needed is firmly established, and detailed planning permission has previously been granted for a similar road into the Avon Nunn Mills Site. A detailed planning application is being prepared for the road and it will be submitted very shortly. The Corporation are confident that planning permission will be granted.

THE PROPOSED ROAD

39. In order to be able to achieve the comprehensive redevelopment of the Avon Nunn Mills Site, it is vital for an appropriate access to be created off Bedford Road and for the road to provide access through the Site (enabling the development of the Eastern and Western Parcels) to the Southern Parcel. It is also vital for the land currently in unknown ownership to be acquired so as to enable the road to be constructed and dedicated as a public highway.
40. The Corporation propose to acquire the Order Land to enable the construction of a road through the site to link the three development parcels and to provide an opportunity to connect with the local highway network south of the town. The road will comprise a single carriageway highway, the specification of which has been agreed with Northamptonshire County Council as Highway Authority, to accommodate both the distributor traffic and traffic which will be generated by development on the Avon Nunn Mills Site. It will also allow for the provision of a public transport corridor through the site.
41. It will be necessary for the bridges which currently cross the River Nene to be widened and strengthened and for a bridge to be constructed so that the road may cross the disused railway line which separates the Southern Parcel from the Eastern and Western Parcels. The Homes and Communities Agency have negotiated an option with Network Rail for the construction of a bridge over the line.

42. To the north of the River Nene the Order Land includes a triangular shaped area of land to the east of the adopted highway known as Nunn Mills Road. This land is included in the Order Land to allow the construction of footings for the widened road bridge over the River Nene and to facilitate the widening of the existing road and improvement works at the junction between Bedford Road and Nunn Mills Road to accommodate the traffic that will be generated by development of the Avon Nunn Mills Site. **[CHECK DESCRIPTION WHEN PLAN PRODUCED]**
43. As the Order Land approaches the River Nene from the north it broadens to a wider area shaded blue over which new rights are to be acquired. **[CHECK WHEN PLAN PRODUCED]** These will facilitate the widening of the existing bridge to provide a sufficiently wide carriageway to accommodate the traffic to be generated by development of the Site together with pedestrian footways on either side. Temporary rights are also to be acquired in the surrounding area to allow the use of cranes in its construction, and the provision of a temporary pedestrian footpath during construction if required. **[CHECK WHEN PLAN IS PRODUCED]**
44. **[WHEN PLAN PRODUCED ADD A PARAGRAPH WHICH DESCRIBES THE RIGHTS - TEMPORARY AND PERMANENT - WHICH WILL BE ACQUIRED]**
45. The Order Land incorporates a public right of way which has historically linked Northampton town centre to Delapre Abbey and Park, to the south of the Avon Nunn Mills Site. The road will provide an alternative, more satisfactory route through the area to Delapre Abbey and Park.

THE REDEVELOPMENT OF THE AVON NUNN MILLS SITE

46. The construction of the road will enable the Avon Nunn Mills Site to be redeveloped. The site would assist in meeting the objectives of the saved policies of the Northampton Borough Local Plan, West Northamptonshire Emergent Core Strategy (July 2009) and the Northampton Central Area Action Plan Emerging Strategy (August 2009). The redevelopment of the Avon Nunn Mills Site will deliver a number of public benefits, including -
- 46.1 the remediation of contaminated land;
- 46.2 bringing back into use previously-used but now under-used and in parts unsightly and low quality land;
- 46.3 the opportunity to improve the linkage of the site to the surrounding neighbourhoods and recreational areas such as Delapre Abbey and Park, City Meadows and Becket's Park;

- 46.4 providing a significant number of new homes for Northampton, including affordable homes;
- 46.5 providing a new high-quality business district for Northampton, capable of attracting inward investment and occupiers;
- 46.6 the creation of a network of new pedestrian and cycle routes;
- 46.7 the opportunity to bring back into use the listed railway shed, and
- 46.8 improving public recreational access to, and enjoyment of, the River Nene;

THE ROAD AND THE NEED FOR CPO POWERS

- 47. In order to enable the Avon Nunn Mills Site to be redeveloped and secure the public benefits identified above, the proposed road needs to be delivered. The Corporation wishes to pursue the Order to facilitate the construction of a road that can maximise the development potential of the area and deliver the benefits for Northampton town and to contribute to the need for both housing and commercial development. As well as serving the proposed development, the road will have a strategic role in carrying distributor traffic, linking in with the local highway network to the south of the Northampton.
- 48. It is clear that the Order will assist the Corporation in achieving its statutory object of securing the regeneration of its area (section 136(1)) of the 1980 Act. The Corporation has wide powers of compulsory acquisition under section 142 of the 1980 Act, under which it may acquire land and/or new rights, for the purposes of achieving its objectives. Appendix D of ODPM Circular 06/2004 provides guidance on the use by urban development corporations of their powers of compulsory purchase, and paragraph 5 makes it clear that "it is for each UDC to decide how best to use its land acquisition powers to fulfil its purposes" and that "the compulsory purchase powers available to UDCs are expressed in side and general terms, reflecting both the national importance of the task or urban regeneration and the practical problems of ensuring that wide areas of dereliction or under-use can be returned to beneficial use". In this instance, the Corporation has decided that it should use its powers to acquire the Order Land to deliver the road to enable the regeneration of the area to take place.
- 49. The Corporation is concerned to ensure that the development of the area is planned and delivered in a comprehensive manner, with the various landowners working to common objectives and to a common programme so that the benefits to the community can be maximised and brought forward in a timely manner. Consequently, the Corporation is driving co-operation and co-ordination between the landowners through regular steering group meetings. The Corporation's co-

ordinating role also extends to ensuring that resources (both public and private) are available at the right times to ensure the smooth delivery of the project.

50. Given the strategic nature of its provision, negotiations between the owners of the Avon Nunn Mills Site have focused initially on putting in place a mechanism for ensuring the delivery of the road. As is explained below, the principal landowners (the Corporation, Avon, George Wimpey and the Homes and Communities Agency) have entered into an agreement governing the acquisition of the land for, and construction of, the road.
51. However, as delivery of the road is an imperative for the Corporation, it has included the relevant parts of those parties' land in the Order to ensure that if any hitherto unknown third party interests come to light, they will not thwart or delay the delivery of the road, and to ensure that the Corporation is able to acquire the land (and any associated rights) needed for the construction of the road if for any reason it cannot be secured through the agreement (eg if a party were to withdraw). However, in relation to those parties' interests, it is envisaged that they will be made available through the agreement and the Order should only be implemented over those parts of the Order Land if it is absolutely necessary.
52. Clearly, the Order is also required to acquire title to the land that is currently in unknown ownership. Without the Corporation securing title to those areas, it would not be able to construct the road and then dedicate as public highway those parts of the road to which it did not have title.
53. The Order also includes certain temporary and permanent rights, which are needed to deliver the road as planned.
54. The construction of the road to bring forward regeneration is clearly within the scope of the Corporation's statutory powers, and the Corporation is of the view that there is a compelling case in the public interest to pursue the Order for the purposes explained in this statement.

DELIVERY OF THE ROAD

55. As is mentioned above, the main landowners and the Corporation have entered into a collaboration agreement which governs the processes for progressing the acquisition of land for the road, its construction, and its dedication as a public highway. The agreement ensures that, provided the Order is confirmed, the Corporation has the ability to secure the land needed for the road from the landowners, so in the unlikely event that a party decided to withdraw from the arrangement the road would still be capable of being delivered.
56. The Corporation will progress the Order with the view to seeking its confirmation by the Secretary of State. In parallel with this process the landowners and the Corporation will establish the appropriate method of procuring the construction of the road and establish the allocation of its cost. In the event that the Order is confirmed therefore, the Corporation and the landowners will have established the mechanism for delivering the road prior to the Corporation exercising its compulsory purchase powers (whether by general vesting declaration or by notice to treat).
57. The Corporation is currently funding the junction improvement at Ransome Road London Road, which will allow development to begin on the Southern Parcel. WNDC has also secured HM Treasury approval in August 2010 for further investment in the provision of highway infrastructure in the Bedford Road Junction. This investment will be subject to approval by the Corporation's Board. It is proposed that part of this Grant Funding be used to deliver the road. All other costs associated with the provision of the road will be secured from the landowners pursuant to the arrangements under the collaboration agreement.

SPECIAL CATEGORY LAND

58. [Some land which currently forms part of Becket Park is needed for the road. Discussions are ongoing with the Borough Council and they have indicated that the land will be made available, and WNDC will move to document this as soon as possible. It is hoped that the required agreement will be entered into prior to the CPO being made, in which case this land will not be included in the CPO and the CPO will not contain any special category land. If it is not possible to conclude the agreement before the CPO is made, then the land will be included in the CPO (and so the CPO will include "open space" for the purposes of section 19 of the Acquisition of Land Act 1981) on the basis that as soon as the agreement is concluded the Secretary of State will be asked not to confirm the CPO in respect of that land.]

59.

HUMAN RIGHTS CONSIDERATIONS

60. Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with rights protected by the European Convention on Human Rights ("ECHR").
61. As is clear from ODPM Circular 06/2004, a compulsory purchase order should only be made where there is a "compelling case in the public interest", and that a public authority pursuing a compulsory purchase order should be sure that the purposes for which it is making that order sufficiently justify interfering with the human rights of those with an interest in the land affected. In making this assessment, the authority should have regard, in particular, to the provisions of Article 1 of the First Protocol and Article 6 to the ECHR. As the Order Land does not include land which is a dwelling, certain other provisions of the ECHR are not relevant.
62. Article 1 of the First Protocol of the ECHR states that "every natural or legal person is entitled to peaceful enjoyment of his possessions" and that "no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law..."
63. Whilst the owners of the land comprised in the Order Land may be deprived of their property if the Order is confirmed and the powers exercised, this will be done in accordance with the law. The public benefits associated with the Order are set out in this statement, and the Corporation consider that the Order strikes a fair balance between the public interest in seeing the regeneration proceed (which is unlikely to happen in the absence of the Order), and the private rights which will be affected by the Order.
64. In this case, despite efforts being made, it has not been possible to locate the owner of the land in "unknown" ownership. As regards Avon, the Homes and Communities Agency and George Wimpey Ltd they have signed an agreement under which they have stated their willingness to make their land available for the road, as they are likely to be beneficiaries of the road being delivered. It is only if it is absolutely necessary will the Corporation have to rely on the Order to acquire the land needed for the road. As regards other owners and those who may have interests in the Order Land (eg statutory undertakers) it is considered

that the public benefits justify the interference with their rights. Further, those other third parties will be entitled to compensation calculated under the CPO Compensation Code in respect of land acquired by the Corporation pursuant to the Order.

65. Article 6 of the ECHR provides that: "in determining his civil rights and obligations...everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law".
66. The regeneration of the area has been extensively consulted upon, particularly with the affected landowners. The Corporation has undertaken extensive discussions and negotiations with the affected landowners regarding the future of the area and the regeneration proposals, and those parties have decided to enter into an agreement to collaborate in bringing forward the road and the wider regeneration of the area.
67. Where parties object to the Order, the Secretary of State for Communities and Local Government shall arrange for a public local inquiry to be held to provide those parties with an opportunity to be heard. This process is compliant with Article 6.
68. The Corporation has carefully considered the matters it has to balance in reaching its decision to proceed with the Order, and has decided that there is a compelling case in the public interest to proceed with it and to deliver the road so as to enable the redevelopment of the Avon Nunn Mills Site to proceed.

CONCLUSION

69. For the reasons set out in this statement, the Corporation is of the view that there is a compelling case in the public interest that the Order be confirmed to enable the road to be constructed to facilitate the regeneration of the Avon Nunn Mills Site.

LIST OF DOCUMENTS

[TO BE COMPLETED]