



The Planning (Listed Building & Conservation Areas) Act 1990

Statement of Case

relating to

**North Somerset Council (Birnbeck Pier)
Compulsory Purchase Order 2020**

30 May 2023

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1. Introduction and Executive Summary

Introduction

- 1.1 This Statement of Case is submitted by North Somerset Council (“**the Council**”) to ask the Secretary of State for Confirmation of the North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2020 (“**the Order**”) (Document A1). The Council is the acquiring authority for the purposes of the Order. This Statement sets out the basis of the Council's case for confirmation of the Order as will be put forward at the Inquiry.
- 1.2 The Council made the Order on 18 September 2020. The Order was made under S47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Acquisition of land Act 1981.
- 1.3 If confirmed by the Secretary of State, the Order will enable The Council to acquire compulsorily the land included in the Order (the "**Order Land**") as shown coloured pink on the ‘Map referred to in the North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2020’ (the "**Order Map**") (Document A2) to secure the proper preservation of the Grade II* listed building known as Birnbeck Pier which connects Birnbeck Island with the mainland at Birnbeck Road/Birkett Road, Weston Super Mare (Pier).
- 1.4 The Council has endeavoured to acquire the Order Land by negotiation. It has not been possible to reach agreement with the current owner as at the date of this Statement of Case.
- 1.5 Whilst compulsory purchase is intended as a last resort, the relevant guidance recognises that should the acquiring authority wait for negotiations to break down before starting the compulsory purchase process, valuable time will be lost (Department of Levelling Up Housing and Communities’ (DLUHC) Guidance on Compulsory Purchase Process and The Crichele Down Rules 2019, paragraph 2, (“**the Guidance**”) (link at B2). Accordingly, it may often be sensible, given the amount of time required to complete the compulsory purchase process, for the acquiring authority to plan a compulsory purchase timetable as a contingency measure, and initiate formal procedures at the same time as seeking to purchase land by agreement.
- 1.6 In essence, the Council's case is that the Current Owner has not and is not taking reasonable steps for the proper preservation of the Pier. The Council's case is that in order to secure the proper preservation of the Pier, the Order should be confirmed as soon as possible, vesting in the Council thereafter.
- 1.7 The Council's evidence will demonstrate that the Order should be confirmed on the basis that:
 - 1.7.1 Reasonable steps have not and are not being taken by the current owner to preserve the Grade II* listed Pier;
 - 1.7.2 That it is expedient that the Pier should be preserved and provision should be made for its preservation;

- 1.7.3 That the Pier and relevant land should be compulsorily purchased for the purpose of making provision for its proper preservation;
- 1.7.4 That land other than the Pier itself included in the Order is “relevant land” that is required for the proper preservation of the Pier, within S47 of the Planning (Listed Buildings and Conservation Areas) Act 1990; and
- 1.7.5 The Secretary of State can be satisfied that in partnership with the Royal National Lifeboat Institution (“**RNLI**”), the Council have the only realistic, credible, funded plan in place to secure the proper preservation of the Pier. The means and resources necessary for securing the proper preservation of the Pier will be available upon vesting.
- 1.8 Since the Order was made the ownership of the Order Land has transferred to Birnbeck Holdings Limited (“the **Current Owner**”). The Order Land is also subject to a charge held by Wolsey Securities Limited. On 11 January 2023, the Council requested a modification to the Order to reflect these changes (Document A4).
- 1.9 In this Statement of Case, the following terms are used:

| | |
|--------------------------|---|
| 1862 Act | Weston Super Mare Pier Act 1862 |
| 1864 Act | Weston Super Mare Pier (Extension) Act 1864 |
| 1990 Act | the Planning (Listed Buildings and Conservation Areas) Act 1990 |
| Birnbeck Island | the island at the western end of the Pier, within the Order land |
| The Council | North Somerset Council |
| Current Owner | Birnbeck Holdings Limited |
| The DCMS Circular | The Upkeep and Repair of Historic Buildings, March 2022 |
| Foreshore | the areas of the Severn Estuary within the Order Land |
| The Guidance | The Department of Levelling Up Housing and Communities’ Guidance on Compulsory Purchase Process and The Crichel Down Rules (updated 2019) |
| MMO | Marine Management Organisation |
| Order Land | the Pier and the Relevant Land |
| Pier | the Grade II* listed main pier structure connecting Birnbeck Island with the mainland and the land it occupies |

| | |
|-----------------------|---|
| Previous Owner | CNM Estates (Birnbeck) Limited |
| Relevant Land | All of the land in the Order that is not the Pier |
| Repairs Notice | notice served by the Council regarding the Pier under S48 of the 1990 Act, 9 September 2019 |
| RNLI | The Royal National Lifeboat Institution |

2. Executive Summary

- 2.1 The Pier consists of a historic bridge structure linking the mainland to Birnbeck Island and is statutorily listed at Grade II*.
- 2.2 The Pier was listed on 19 May 1983. It is in a state of extreme disrepair and has been closed to the public since 1994.
- 2.3 The Pier has been on Historic England's Heritage at Risk register (Document A8) since 1999 (the first published edition of the Register). It is recorded as 'Priority A' and its condition is described as 'very bad'.
- 2.4 Although closed to the public since 1994, the RNLI maintained a narrow walkway on the Pier deck for crew to access Birnbeck Island and the RNLI lifeboat station. This continued until 2014, when the continuing deterioration of the fabric of the Pier rendered access too dangerous for crew along the walkway. The RNLI ceased operations at the Pier and relocated to a temporary station on Marine Parade in Weston-super-Mare, where the station remains today. The RNLI separately owns freehold land at Birnbeck Island, comprising a lifeboat station and slipway built in 1902.
- 2.5 The Council is the Local Planning Authority for the area within which the Pier, Birnbeck Island, and the relevant land included in the Order is situated.
- 2.6 The Repairs Notice, dated 9 September 2019 (Document A3), required works that were reasonably necessary for the proper preservation of the Pier. Those works were not undertaken and the Order was made on 18 September 2020.
- 2.7 Since January 2021 the Current Owner of the Pier is Birnbeck Holdings Limited. The Previous Owner was CNM Estates (Birnbeck) Limited, purchasing the land within Title ST212047 (Documents E1 and E2) on a phased basis between 2011 and 2014. The Council and the RNLI have been dealing with one Director throughout, Mr Wahid Samady. He resigned as a Director of the Previous Owner in April 2022 after the Order Land was transferred to the Current Owner. He is the sole Director of the Current Owner.
- 2.8 To date, neither the Current Owner nor the Previous Owner have undertaken repairs and or maintained the Pier and it has continued to deteriorate. This process is accelerating as each year passes without works of repair taking place.
- 2.9 Reasonable steps are not being taken for the proper preservation of the Pier. The Council considers that the Order is required to secure the proper preservation of the Pier and it is expedient for the Order to be confirmed. The Order necessarily includes relevant land within the meaning of S47(7) of the 1990 Act. This is land comprising or contiguous or adjacent to the Pier, required for preserving the Pier or its amenities, or for affording access to it, or indeed for its proper control or management.

- 2.10 Since 2014, both the Council and the RNLI have had extensive contact with the Previous Owner and more recently the Current Owner, in order to establish a useful and proactive ongoing working dialogue about the future of the Pier and to acquire the Order Land by negotiation. This process has been unsuccessful in achieving either works of repair or the transfer of ownership.
- 2.11 The Council has led the process of financial and business planning to secure the proper preservation of the Pier and a viable future once repaired and preserved, in partnership with the RNLI and consulting with the Birnbeck Regeneration Trust ("**BRT**") - a local charity and company limited by guarantee. The Council has been successful in securing almost £20m of external funding from a variety of sources. RNLI are committed to procuring works for the proper preservation of the Pier and have funds planned for such works, in conjunction with the construction of a new lifeboat station on Birnbeck Island to reinstate lifesaving operations on a 24/7 basis in this section of the Bristol Channel.
- 2.12 There is a compelling case in the public interest for the acquisition of the Pier and relevant land contained within the Order.

3. The Pier and the Listing

- 3.1 Birnbeck Pier itself is listed on the statutory list as a Grade II* building, having been listed on 19 May 1983. It is described in the statutory list (Documents A6 and A7) as follows:

"Main pier connects Birnbeck Island to the mainland below the Prince Consort Gardens. Dated 1862, opened 1867. Designed by Eugenius Birch. Ironwork by the Isca Foundry of Newport, Gwent. Iron girder piers with cross girders to side of deck. Deck supports and tubular iron legs, with outward splay, grouped in fours and linked by braces. Wooden deck is flanked by continuous cantilevered seating with curved open-work backs and hand rails and swan-neck stanchions. Small bays project at intervals along the sides. Cast iron lamp standards, to sides of pier."

- 3.2 The Pier was commenced in 1862 to link Birnbeck Island with the Mainland having been authorised by the Weston Super Mare Pier Act 1862 (Document E3).
- 3.3 Grade II* buildings are particularly important as buildings of 'more than special interest' and only 5.8% of listed buildings in England are Grade II* listed. The Pier has been listed at Grade II* because it survives as one of the 14 piers designed by Eugenius Birch, the noted Victorian engineer. Most of the other piers designed by Eugenius Birch have been destroyed or demolished, with only six including Birnbeck Pier currently remaining:
- 3.3.1 Aberystwyth Royal Pier (Grade II)
 - 3.3.2 Birnbeck Pier (Grade II*)
 - 3.3.3 Bournemouth Pier (unlisted)
 - 3.3.4 Eastbourne Pier (Grade II*)
 - 3.3.5 Hastings Pier (Grade II)
 - 3.3.6 North Pier, Blackpool (Grade II)
- 3.4 The Pier was designed for Richard and John Laybourne and erected by Messrs Toogood from parts prefabricated at their Isca Iron Foundry, in Newport, South Wales. The Pier was constructed between 1862 and 1867 with the foundation stone being laid in 1864 and opened to the public in 1866. Birnbeck Pier was opened to the public by Master Cecil Hugh Smyth-Piggot on 5 June 1867.
- 3.5 Now over 156 years old, it is unique as being the only pier in England connected to an island.
- 3.6 Eugenius Birch used a revolutionary screw pile construction technique, based on the patent of Alexander Mitchell for securing the cast iron columns into the

sea bed. This meant that the Pier was strong enough to accommodate buildings and significant numbers of people.

- 3.7 The Pier consists of 15 groups of four columns designed to support a timber deck. The Isca Iron Foundry were well known engineers, iron founders and railway plant manufacturers. They exhibited at the 1862 London International Exhibition.
- 3.8 Paddle Steamers commenced calling at Birnbeck Island in June 1867, using the northern jetty for landing and disembarking. The facilities at Birnbeck Island expanded incrementally over the following decades. The first RNLI lifeboat station at Birnbeck Island was established in 1882. In 1889 a lifeboat station was constructed on the north side of the Pier.
- 3.9 The building of the Pier coincided with the Victorian expansion of the railways and changing conditions in the work place which for the first time meant that ordinary people could enjoy a seaside holiday.
- 3.10 The Pier served a dual function therefore, as a landing stage for passenger steamer services around the Bristol Channel and as a distinctive tourist destination in its own right. Visitors arrived by steamer from both the English and Welsh sides of the Channel. Once landed there was plenty of all day entertainment available including (at various times) cafes, pavilions, a water slide, funfair rides and amusements. At its height, the Pier was the Victorian equivalent of a modern theme park. It was also a major transportation link, with scheduled steam ship services arriving from, and departing to, destinations including Bristol, Cardiff, Minehead, Ilfracombe and Lundy Island. Throughout the day, visitors would arrive to enjoy the entertainment and amenities afforded by the Pier and Birnbeck Island, with passengers and goods for transportation would also arrive and depart via the private road access taken from Birnbeck Road / Birkett Road, authorised by and constructed under the powers in the 1862 Act. People arrived on foot and on bicycles, and by car, tram and coach. Commercial goods were delivered and collected in carts and later lorries.
- 3.11 Steamers played a large part in the history of the Pier, with regular ferry services continuing up until 1971. Special excursion steamer trips continued to use the Pier for a number of years after this, until the Pier was closed to the public in 1994.
- 3.12 With the onset of World War II, the Pier did not suffer the fate of many other piers around the UK coast, such as partial demolition as an anti-invasion precaution, or from bomb damage. Instead, it remained intact and protected due to its designation by the Admiralty as 'HMS Birnbeck'. It was the base of the Directorate of Miscellaneous Weapons Development, which conducted highly secret weapons testing in the Bristol Channel. It is only in recent years that the extent of this work and its importance during war time has become more widely known.
- 3.13 After 1945, the Pier returned to civilian use and went back to its traditional role of providing holiday entertainment, as a ferry terminal and accommodating a

busy RNLI lifeboat station and providing holiday entertainment. In the 1970s, like many traditional coastal areas around the UK, visitor numbers began to decline, coinciding with the rise of affordable 'package' holidays abroad, with more options for the public as to how they spent their money.

- 3.14 From the 1970s onwards, the Pier suffered a slow and steady decline in both popular attraction and its general condition. Its ownership changed several times, with various multi-million pound development plans being proposed on each occasion. None of these plans were progressed.
- 3.15 The historic significance of the Pier was recognised by its listing in May 1983. The listing occurred whilst the Pier was still open to the public, affording access from the mainland to Birnbeck Island and its historical amenities, as well as the amenity afforded from the Pier itself.
- 3.16 The Pier closed to the public 11 years after listing, in 1994. The Pier was added to the first edition of the National Buildings At Risk Register for England in 1999, following a pre-publication document in 1998 called 'Buildings At Risk', when the concept of a listed building being 'at risk' was formally articulated for the first time. The Pier's entry is recorded as 'Category C – slow decay, no solution agreed', with a 'hard hat rating' of 4, such ratings being used to illustrate level of risk from 1 (low) to 6 (high). The first National Buildings At Risk Register was published the following year in 1999. By then the risk to the Pier is recorded as 'Category A – very bad'. It was accompanied by a hard hat rating of 6.
- 3.17 A detailed timeline of the history of the Pier from 1862 – 2023 is appended to this Statement. Photographs illustrating the Pier are at Documents J1-J4.
- 3.18 Four further buildings and structures within the Order Land are listed as Grade II in their own right. There is considerable historic significance in the Pier. It is the Council's case that it is expedient to preserve this Grade II* heritage asset. There is a real prospect of losing the Pier should the CPO not be confirmed, as the structure of the Pier is in peril of collapse and in urgent need of significant works of repair.

The RNLI and its association with the Pier and Birnbeck Island

- 3.19 The RNLI was established in 1824 and its purpose as a charity is to save lives at sea. Working together with partners and communities it aims to educate, influence, supervise and rescue those at risk from drowning.
- 3.20 In the UK and Ireland, the RNLI operates a strategically placed fleet of inshore and all-weather Lifeboats, with a seasonal Lifeguard service in certain locations. It also conducts safety, research and education programmes.
- 3.21 RNLI build, operate and maintain Lifeboats and Lifeboat Stations in 238 operational locations around the UK and Ireland, saving 408 lives in 2021.
- 3.22 The RNLI has had a Lifeboat Station based on Birnbeck Island since 1882. A second Lifeboat Station operated by way of a slipway was built in 1902 and

operated until 2007. The RNLI stills own the freehold of the 1902 station to the south of the Pier.

- 3.23 A Lifeboat Station in Weston as this point in the Bristol Channel, is a key lifesaving asset. Since 2000, the volunteer crew at Weston have launched 1064 times, aided 572 people and saved 85 people's lives.
- 3.24 The Weston Lifeboat crew have had an important lifesaving impact. Significant effort and resources were applied to ensure that this service was maintained and managed for as long as possible on Birnbeck Island.
- 3.25 Following the deterioration of the Pier deck itself, the RNLI installed a walkway over the existing deck in 1999, allowing the Weston Lifeboat crew to remain operational at Birnbeck Island until 2014.
- 3.26 From 2007 the RNLI closed the slipway due to the uncertainty about the future of the Pier and island and the RNLI crew operated out of a temporary container-based facility on the island. Launch and recovery vehicles accessed the water via the concrete ramp on the north side of the Pier, the location of the original Lifeboat Station.
- 3.27 The RNLI decided to leave Birnbeck Island in 2014 because:
 - 3.27.1 there were increasing risks to their crews of sharp objects being underfoot on the deck and the island itself, debris falling from the Pier in its own right and/or debris falling into the water with the risk of puncturing their boats; and
 - 3.27.2 It could no longer be assumed that the structure of the Pier and therefore the temporary deck walkway, were safe to use.
- 3.28 As a consequence, RNLI withdrew its operations to Knightstone Harbour, where they remain in temporary accommodation consisting of adapted shipping containers. The station continues to Operate a B-Class and D-Class Lifeboat service with significant operational difficulties.
- 3.29 The RNLI has continued to explore feasible sites in the Weston bay over an approximately 7.8km stretch of coastline from Brean Down in the south to an old Ministry of Defence facility in the north. The challenges associated with delivering the station in Weston derive from several main contributory factors:
 - 3.29.1 Weston has one of the largest tidal ranges in the world, making the distance from land to water significant at low tides (up to 1 mile)
 - 3.29.2 The combination of wind, wave and tidal flow make conditions for operation and launch and recovery difficult.
 - 3.29.3 Weston is surrounded by mudflats, large sections of which cannot be traversed by launch and recovery equipment.

- 3.29.4 The mudflats have multiple protections and designations (for example, as a Special Area of Conservation, Special Protection Area, RAMSAR site and Site of Special Scientific Interest)
- 3.29.5 There are a limited number of developable areas on land that have access to water and none that provide sufficient access to water for operational purposes.
- 3.30 The conclusions from the RNLI's considerations of its options were as follows:
 - 3.30.1 A fully functioning Lifeboat service is necessary to avoid and to the prevent loss of life at sea at this location;
 - 3.30.2 Birnbeck Island is the safest and most effective place to operate the Lifeboat Station service;
 - 3.30.3 The current temporary arrangement means that the most capable lifesaving asset, the B-Class lifeboat, is only available and on service for approximately a third of the day due to tidal restrictions.
- 3.31 Having confirmed the need for a Lifeboat Station at this location and the lifeboat configuration the RNLI has taken the following steps in order to bring about the reintroduction of an operational service from Birnbeck Island:
 - 3.31.1 Entered into negotiations between 2020 and 2022 with the Previous Owner and their creditors, to resolve the ownership of the Pier and island;
 - 3.31.2 Engaged specialist engineers (Haskoning RHDV) to carry out detailed analysis, laser scanning and modelling to inform the RNLI of the current state of the Pier and its potential for repair, with corresponding feasibility reports;
 - 3.31.3 Developed concept designs for the Lifeboat Station and associated slipway or ramp infrastructure at Birnbeck Island;
 - 3.31.4 Prepared contractor and Quantity Surveyor costings for the anticipated repairs to the Pier, the replacement lifeboat facility, associated repairs of the buildings at Birnbeck Island and/or demolition of derelict structures and making safe the remainder of Birnbeck Island;
 - 3.31.5 Conducted analysis of the launch and recovery capability and safety, including bathymetric surveys;
 - 3.31.6 Completed environmental ground surveys;
 - 3.31.7 Programmed regular consultations and meetings with the Council, Historic England, the National Heritage Memorial Fund and the National Lottery Heritage Fund;

- 3.31.8 Initiated pre-application meetings with Historic England and the Council
 - 3.31.9 Obtain information from regular meetings with the local Weston RNLI management team and crew;
 - 3.31.10 Hold discussions with BRT;
 - 3.31.11 Negotiate with the Council as to the terms on which any acquisition, repair and sustainable control and management of the Pier and Birnbeck Island will take place.
- 3.32 The RNLI supports the compulsory purchase of the Order Land and has agreed to:
- 3.32.1 Lead the emergency repair works to the Pier which will secure its proper preservation;
 - 3.32.2 Commit to funding the works package referred to by RNLI as Phase 1A or the emergency works for the Pier in conjunction with the National Heritage Memorial Fund and Historic England, which will properly preserve and save what remains of the salvageable historic fabric of the Pier and return permanent access to Birnbeck Island in order to re-establish the Lifeboat Station; and
 - 3.32.3 Fund from its own resources, a new dual asset Lifeboat Station on Birnbeck Island.
- 3.33 The RNLI's participation and funding is reliant on its investment remaining within its charitable objects, i.e. for the public benefit and not for private benefit and on the basis that there is a future plan, supported by a credible and resourced public or charitable body, for the proper control and management of the Order Land to keep the Pier in repair and regenerate the Order Land in its entirety to ensure the future legacy of the Pier and Birnbeck Island as an amenity in its own right.
- 3.34 The RNLI has built and maintains its current portfolio of 238 Lifeboat stations alongside a large range of other buildings and coastal infrastructure. Many of which are buildings in the most challenging of marine locations. Of relevance are projects such as:
- 3.34.1 Mumbles Lifeboat Station where the RNLI rebuilt the pier head, which is a listed pier of a similar type and construction as the Pier the subject of the Order;
 - 3.34.2 Cromer Lifeboat Station, which is located at the end of Cromer Pier.

4. The Order Land

Location

- 4.1 The Order Land is in the administrative ward of Weston-super-Mare Hillside, in the district of North Somerset, South West England. It is located approximately 0.8 mile/1.3km from the centre of Weston and extends into the Bristol Channel.
- 4.2 The Order Land lies within the Great Weston Conservation Area, a Site of Special Scientific Interest (SSSI), A Special Protection Area, Special Area of Conservation and an International Convention on Wetlands of International Importance (1971) RAMSAR designated site.

Description of the Order Land

- 4.3 The Order land encompasses the Grade II* listed Pier together with all the other land and buildings within the Land Registry title ST212047 (Documents E1 and E2).
- 4.4 The land within that title comprises the Pier itself, Birnbeck Island (excluding RNLI's lifeboat station comprised in Title ST242420), areas of cliff and Foreshore and the mainland approaches to the Pier from Birkett Road and Kewstoke Road. The land within Title ST212047 corresponds with the extent of land that was historically operated in conjunction with the Pier, for example, for facilitating public access to the amenity of the Pier and island, or as part of the commercial operations on Birnbeck Island, or various activities supporting those activities.
- 4.5 This section includes a description of the Pier, the other listed buildings, additional buildings and structures and other elements within the Order land.

The Pier

- 4.6 The Pier extends approximately 1,040 feet (317 metres) into the Bristol Channel/Severn Estuary. The seaward end is at Birnbeck Island and the landward end of the Pier sits at the base of a steeply rising cliff on the end of a ridge forming the northern edge of Weston.

Relevant Land within the Order and comprised in Title ST212047

Access to the highway from Birnbeck Road/Birkett Road ('the Access')

- 4.7 Access to the Pier from Birkett Road to the south and Birkett Road to the north terminates in an area currently used as a car park. This area has always provided the access to the Pier and the principal point of visitor arrival.
- 4.8 Construction of the Access was authorised by section 16 of the 1862 Act and described in section 17. The southern extent of the statutory access meets the adopted highway network at a point demarcated by a metal sign embedded in the surface of the road. It is shown in the 1864 Indenture

(Documents E5 and E6), which appears to adopt the deposited plan for the 1864 Act (Document E4).

Other Relevant Land at the Landward end of the Pier

4.9 **Pier Master's Cottage and land to the north** – adjacent to the remains of the entrance gate and turnstile structures on the landward end of the Pier, this building functioned as the ticket office for gaining entry to the Pier, for the provision of refreshments for the tea garden and as a residence for the Pier Master and their family. The land to the north behind the cottage was originally a tea garden, storage area and pedestrian access route.

4.10 **Other outbuildings** – some small outbuildings on the landward end of the Pier mostly used for storage.

4.11 **Pier View** – a small two storey black and white building known as “Pier View”, which was used by BRT as a visitor centre/shop. There was an informal agreement between the Owner and BRT to allow the use of the building. The building has been closed for safety reasons since 2 March 2020 due to its deteriorating condition. Following further vandalism, the entire building is now boarded up and is unsafe to enter.

4.12 **Access to Kewstoke Road from the Pier Master's cottage**

There is a path north from the Pier Master's cottage which connects to Birkett Road and Kewstoke Road. It is currently fenced off and unused. Its construction is also authorised by section 16 of the 1862 and described in section 17 of that Act.

4.13 **Other listed buildings within the Order Land at the Landward end of the Pier**

4.13.1 **Entrance Gates and Turnstiles, landward end of the Pier (listed grade II)**

This land comprises part of the Pier and/or are immediately contiguous or adjacent to it. These features are on land that immediately adjoins the Pier at its landward end. The statutory list describes the features at the entrance to the Pier as follows:

Entrance Gates and Turnstiles. At landward end of main pier. 1860's. Two cast-iron gate piers with moulded capitals and floral lamp bases. Two flanking pairs of cast-iron turnstiles, attached to original Toll House Lodge (q.v.) on left, and to altered house on right. Section of floral railing attached to right pier.

The entrance gates and turnstiles were listed on 19 May 1983 and provide the only access to the Pier from the mainland.

4.13.2 **Toll House Lodge landward end of the Pier (listed grade II)**

The statutory list describes this small building at the entrance to the Pier as follows:

Toll House Lodge 1860's. Limestone rubble. Low hipped slate roof. Single storey building attached to left-hand turnstile and built on retaining sea wall.

It was first listed on 12 November 1974.

4.14 **Birnbeck Island and its other buildings**

Birnbeck Island is reached by the Pier from the mainland. It has been substantially developed for a range of leisure related uses since the Pier was built. The paragraphs below summaries the principal features of Birnbeck Island.

East and West Pavilion buildings on the island – these buildings are in a ruinous state with large areas of roof and other historic features missing or collapsed on the ground. Stone built with pitched tiled roof and cast ironwork pillars.

1882 lifeboat house– stone-built building with pitched tiled roof.

Concrete deck on south side of island - added in the early 20th century to the complex to provide additional space for visitor attractions. A raised concrete deck (promenade platform) on the north side overlooks the North Jetty and was originally enclosed at ground level. Both these structures are in poor condition with considerable deterioration of the concrete material. Some areas are dangerous due to large holes in the floor of the decks.

Small brick building – small red and blue brick building attached to the west Pavilion; roof is missing but the remainder of the building remains intact

4.15 **North Jetty, Birnbeck Island (listed grade II)**

The North Jetty on Birnbeck Island was first listed on 19 May 1983. It is described on the list as follows:

Probably late 1860's but extensively repaired 1903-1905. Runs north from the island. Iron cross-girders support the deck. Coupled tubular shafts with diagonal braces run from the sea to the girders. At outer end a landing stage, with densely clustered supports with some diagonal bracing on south side. Tiny pavilion.

The North Jetty is partially collapsed. The Council notified the Previous Owner of the damage and partial collapse of the North Jetty following 'Storm Frank' at the end of 2015. In January 2016, the Council served a Section 77 Dangerous Building notice under the Building Act 1984. In 2016, a Listed Building Consent application was made for partial demolition of the North Jetty to remove the walkway and 5 trestle piers. This was consent was approved with conditions, in October 2016 (Document H2).

In January 2017, contractors working for the Previous Owner commenced work by starting to construct a haul road routed down the cliff to the north of the Pier on the landward side. The haul road was not part of the Listed Building Consent and was carried out on land owned by a third party, designated as a Site of Special Scientific Interest (SSSI) under the Wildlife and Countryside Act 1981. The Council were required to issue a Stop Notice under the Town and Country Planning Act 1990.

Listed Building Consent expired in 2019. The application was re-submitted in October 2020 and approved in April 2021 (Document H5). No works have been undertaken to the North Jetty.

No further action was taken by the Previous Owner and to date, no action has been taken by the Current Owner to resolve these specific issues, and the spoil arising from haul road remains on the shore north of the landward side of the Pier.

4.16 **Clock Tower, Birnbeck Island (listed grade II)**

The clock tower on Birnbeck Island was first listed on 19 May 1983. It is described as follows:

Late C19 limestone rubble with tiled ogee roof. Square tower: clock faces on four sides above plat band

4.17 **Lifeboat House and Slipway to the South of the Pier at Birnbeck Island (listed grade II), not included in the Order Land**

The RNLI retains title to the 1902 Lifeboat House and Slipway on Birnbeck Island, located immediately to the South of the Pier. It is not included in the Order as relevant land but is included here for completeness. It is described as follows on the statutory list:

Squared rubble, modern tiled roof. Coped gable end has date stone under pediment. Slipway has paired concreted columns with girder bracing. Included for group value.

4.18 **The foreshore areas and Causeway**

Foreshore - Title ST212047 includes areas of foreshore on either side of the Pier down to mean low water level at both the landward and Birnbeck Island end of the Pier. The middle section of the Pier is bounded by sea in the ownership of the Crown Estate Marine Estate.

Causeway - A causeway that is visible only at low tide that extends from the base of the cliff edge at Kewstoke Road north of the landward end of the Pier. Some of the causeway lies within the title contiguous with the Pier and Birnbeck Island.

4.19 **The land outside but surrounding the Order Land**

Other features of the local area immediately adjacent and outside of the Order Land include:

4.19.1 Sea Walls and Promenade

To the south are sea walls and a public promenade/coastal walkway leading away from the pier and around the shoreline heading into the main seafront area of Weston-super-Mare.

4.19.2 Highways, access and green space

Birkett Road runs immediately above the Pier, linking Weston via Kewstoke Road with the villages of Kewstoke and Sand Bay to the north. On the other side of Birkett Road is Prince Consort Gardens, a Green Flag award park. Set back in an elevated position from Birnbeck Pier, the Gardens command fine views over the Bristol Channel. The gardens are terraced over three levels and include lawns, flower and shrub beds, rockeries, an ornamental pond, a wildlife pond, Victorian shelter and park benches. The Gardens are looked after by an enthusiastic community group of volunteers. Upper Kewstoke Road is on the other side of the Gardens and has residential properties on the rising ground above. The surrounding housing stock is mostly late 19th/early 20th century, a mixture of individual houses and flat conversions with mature gardens and street trees

4.19.3 King Charles III Coastal Path and National Cycle Network

- (a) The King Charles III England Coastal Path runs through the car park area of the Order Land. The 'Sand Bay to Brean Cross Sluice' section of the Path is the first section of the Path in North Somerset to open. The name given locally is the 'North Somerset Tidal Trail'.
- (b) The National Cycle Network passes through the Order Land on the landward side; its local name is the 'Pier to Pier Way', which connects the towns of Clevedon and Weston-super-Mare. It forms part of the National Cycle Network 'Paths for Everyone' programme, making the network safer and more enjoyable for everyone who wants to use it.

4.19.4 Former Royal Pier Hotel site

To the south, along Birnbeck Road is the site of the former Royal Pier Hotel. The hotel was badly damaged by fires in 2008 and 2009. The building became unstable and was demolished by the Council.

4.20 Weston Woods and Worlebury

Much of the steeply rising ridge above the Pier is tree lined and known locally as Weston Woods. Within the woodland lies the Scheduled Monument known as Worlebury Hillfort. The Hillfort is a multivallate Iron Age hillfort having been

constructed and used between the 6th century BC and the mid-1st century AD. An outstanding example of its class, it survives well and is known from excavations to contain archaeological and environmental information relating to the monument and the landscape in which it was constructed and later reused.

4.21 **The Severn Estuary**

The Pier is located within the estuary of the River Severn. Land on either side of the Pier in its centre, as well as the estuary surrounding the Order Land more generally, forms part of the marine estate of the Crown Estate.

5. Enabling Powers

- 5.1 Sections 47 - 51 of the 1990 Act, allow a local authority, Historic England (in Greater London) or the Secretary of State to compulsorily acquire a listed building in need of repair if it appears that reasonable steps are not being taken for properly preserving the building.
- 5.2 A prerequisite of making a compulsory purchase notice is the service of a Repairs Notice under Section 48 of the 1990 Act. In this case, a Repairs Notice was served on 9th September 2019 and is described in more detail in Section 6 of the Statement.

Proper Preservation – s47(1)

- 5.3 The Secretary of State may authorise an appropriate authority to acquire compulsorily a listed building and relevant land if it appears to the Secretary of State that reasonable steps are not being taken for properly preserving the listed building.
- 5.4 It is the Council's case that the Pier is a listed (Grade II*) building that is subject to a Repairs Notice that has not been complied with and for which reasonable steps are not being taken for its proper preservation. Since the Repairs Notice was served in September 2019 reasonable steps have not been taken for proper preservation for the Pier and the Pier is continuing to deteriorate. There have been no deliverable proposals for repair or preservation to secure the future of the Pier.
- 5.5 On numerous occasions since 2014, the Council has brought its concerns about the deteriorating condition of the Pier and its associated structures to the attention of the Previous Owner, including formal notifications regarding the North Jetty and also regarding the danger that the deteriorating structure poses to the public who have access to the foreshore. No works have been undertaken by the Previous Owner or the Owner to repair or properly preserve the Pier or any of the other buildings or structures within Title ST212047.
- 5.6 Following the service of the Repairs Notice, an application was made in July 2020 for an initial package of works to address a small number of items set out in the Schedule 2. Following numerous discussions and submission of plans and amended plans, these limited works received conditional listed building consent in February 2021 (Document H4). To date, none of the pre-commencement conditions have been discharged and the works have not been carried out.
- 5.7 On making the Order, the Previous Owner applied to the Magistrates Court pursuant to S47(4) of the 1990 Act for a permanent stay to the Order process on the basis that reasonable steps were in fact being taken for the proper preservation of the Pier. The application was adopted by the Current Owner when the land comprised in Title ST212047 was transferred. That application was withdrawn by the Current Owner, by way of a consent Order agreed with the Council (Document F1). The Current Owner agreed to make a contribution to the Council's costs of the stay application process.

- 5.8 The Council's dealings with the Previous and Current Owner provides no confidence to the means and resources necessary for securing the Pier's repair and proper preservation will be available. The Current Owner has a no clear and deliverable plan to secure the ongoing maintenance costs of the structure in short, medium or in the long term.
- 5.9 In the absence of any works of repair, the Pier and its associated buildings and structures continue to deteriorate. The Order is therefore required to prevent the total loss of the Pier, highly important not only to Weston's history but the history of pier development and legacy of Eugenius Birch nationally.

Expediency – Section 47(3)

- 5.10 Section 47 (3) of the 1990 Act states:

The Secretary of State shall not make or confirm a compulsory purchase order for the acquisition of any building by virtue of this section unless—

(a) in the case of the acquisition of a building situated in England otherwise than by the Commission, he has consulted with the Commission; and

(b) in any case, he is satisfied that it is expedient to make provision for the preservation of the building and to authorise its compulsory acquisition for that purpose.

- 5.11 The Secretary of State will need to consult with the Commission if minded to confirm the Order.
- 5.12 In summary, it is evidently expedient to make provision for the preservation of the Pier as the loss of the Pier is a real prospect if the Order is not confirmed. The structure of the Pier is in peril of collapse and in urgent need of significant works of repair in order to preserve this unique heritage asset. The question of expediency is also addressed in part by the Council's case that there is a compelling case in the public interest. The Secretary of State may also be satisfied that it is expedient to authorise the compulsory acquisition of the Order Land as it is only the Council that has the means and resources necessary to repair and properly preserve the Pier. Together, the Council and RNLI have the necessary funding, together with clear, objectively robust, and sustainable proposals for the repair, preservation and control and management of the Pier and Relevant Land, capable of securing the future of this historic asset. Both the Council and the RNLI are committed to its long-term preservation and returning public access to the Pier and the Order Land as required
- 5.13 It is also compelling in the public interest that RNLI has a genuine operational requirement for the preservation of the Pier in order to secure access to existing assets and re-establishing the Lifeboat Station on Birnbeck Island. There are compelling public safety arguments in favour of the use of the Pier by the RNLI in allowing access to the island, once repaired. The Secretary of State can be satisfied therefore that it is expedient to make provision for the

preservation of the Pier and to authorise the acquisition as set out in the Order.

- 5.14 The Council, together with RNLI, has secured sufficient funding to secure the proper preservation of the Pier and to enable its long term future, including the Pier being re-opened to the public in due course.
- 5.15 The Council believes that the Pier is capable of being restored, and that together with the RNLI, the necessary funding and expertise will be available to bring about the proper preservation of the Pier and establish a sustainable long-term use for the Pier. There is very significant public support in Weston-super-Mare for preserving the Pier and re-opening the Pier and Birnbeck Island to the public.

Relevant Land – Section 47(7)

- 5.16 Under Section 47 of the 1990 Act, the acquiring authority may include within the Order the listed building together with any relevant land. Section 47(7) defines relevant land as:

"in relation to any building, means the land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management".

- 5.17 The Council's case is that the Order Land correctly contains the Pier and relevant land for the purposes of section 47.

Registered Title ST212047

- 5.18 The Order Land is co-extensive with Title ST212047. It forms a single planning unit, in the same ownership and occupation as the Pier itself. As registered at the Land Registry the Title is largely identical to that acquired upon the formation of the Birnbeck Pier Company following the 1862 Act and further extended on 30 July 1864 by the 1864 Act.
- 5.19 The land for the Pier was secured in an Indenture dated 28 October 1864. The Indenture has a plan attached which shows the extent of the powers secured by the local acts. The North Jetty is included and it would appear to be the deposited plan from the 1864 Act.
- 5.20 The land now comprising Title ST212047 has historically been controlled, managed and operated as part of the Pier holding and provides access to the Pier. The whole of the Order Land will continue to be critically important to provide access to the Pier and for the proper management of the Pier in the future. The 'relevant land' is either land 'comprising' the Pier itself, as the holding extends onto the foreshore at both the landward and island ends of the Pier, or it is contiguous or adjacent to the Pier. The full extent of the Title and Order Land and the manner in which it has been held and used historically, supports the Council's case that it is required for preserving the Pier, or its amenities or for affording access to it, or for its proper control or

management and is therefore appropriately included in the Order as Relevant Land.

The Council's case regarding Relevant Land

- 5.21 When considering the statutory definition of 'relevant land', the historic extent of the land comprised in the freehold estate for the Pier that is contiguous and adjacent to the Pier, is a logical starting point. In relation to the specific aspects of the Relevant Land included, the following is a summary of the Council's case:

The Access – the approach to the Pier from Birnbeck Road (including car parking area and cliff)

- 5.22 The area of land leading to the Pier from Birnbeck Road is the only viable vehicular access to the Pier. It was authorised and laid out pursuant to sections 16 and 17 of the Weston Super Mare Pier Act 1862. The Access will be required for the very substantial works of preservation that are required to the Pier structure and deck as specified in the Repairs Notice. The Access is contiguous or adjacent to the Pier and is required to facilitate continued access for the carrying out of works of repair and proper preservation to the Pier, affording access and car parking to the Pier and Birnbeck Island once the Pier is repaired and preserved, so that its historical amenity as at the date of listing may endure. The Access is required to enable the operation of the proposed RNLI Lifeboat Station, as well as being required for the proper control and management of the Pier, Birnbeck Island, and the other buildings and structures, facilitating ongoing maintenance. The Access is the only means of safe vehicular access to the Pier that is accessible by the range of vehicles that will be required for works to preserve the Pier. The road layout and gradients at this point result in this being the only access where levels and visibility constraints are acceptable for traffic movements providing materials for the repair and preservation works.

Northern Access

- 5.23 The Council also believes that the access over the footpath leading from the Pier Master's cottage to the public highway is required for access to the Pier and is relevant land required for access to the Pier and for its amenity. As with the access to the south, this area is contiguous with the Pier. It was authorised and laid out pursuant to sections 16 and 17 of the Weston Super Mare Pier Act 1862.
- 5.24 The land will need to be managed appropriately for the amenity of the Pier, including providing a second pedestrian access and also for allowing for the maintenance, planting and inspection of the cliff face.
- 5.25 The land will afford pedestrian access to the Pier from Kewstoke Road. It not being included in the Order land would mean that the amenity of the Pier would be adversely affected if the area is not properly controlled and managed, given that it would not serve any function and is unlikely to be maintained if it is in separate ownership.

Pier Master's Cottage

5.26 The Pier Master's cottage (which is not listed) is located immediately to the north, and contiguous with, the Pier. It acted, amongst other roles, as the ticket office to access the Pier. The proximity of the Pier Master's cottage to the entrance to the Pier means that its inclusion in the Order is justified because of the impact of the derelict Pier Master's cottage on the visual amenity of the Pier. It is required for the Council to take ownership of the Pier Master's cottage to ensure the proper control of the area of land immediately adjacent to and integral to the Pier itself and to manage the condition of the Pier Master's cottage. The land to the north of the cottage and below the northern access was previously used as a tea garden and for other amenities for users of the Pier. It is required in future to support the amenity of the Pier by again performing this function.

Entrance Gates, Turnstiles and Toll House Lodge - landward end of the Pier (listed grade II)

5.27 These features are on land contiguous with the Pier and are on land forming the entrance to the Pier or immediately to the south of it. These features were part of the operational Pier, controlling access to it by the public. They are located on land that affords access to the Pier or, like the Pier Master's Cottage on the North side of the Pier entrance, are so close to it that their being in good repair is essential for the amenity of the Pier. All are currently in a very poor condition. Without their being acquired together with the Pier the Council and RNLi would not be able to access the Pier. In addition the Council needs to control and manage this area to allow for access to the Pier and to ensure the amenity of the Pier is preserved.

Pier View

5.28 Pier View is a small two storey black and white building south of the Pier. It was originally built as a refreshment facility associated with the Pier and was used under an informal agreement in recent years by the Birnbeck Regeneration Trust as a visitor centre/shop. The building has been closed for safety reasons since 02 March 2020 due to its deteriorating condition. Following further vandalism, the entire building is now boarded up and is unsafe to enter. It is located adjacent to the entrance to the Pier and on land contiguous with the Pier. Its being in suitable repair is also required for the amenity of the Pier. Vehicular access to Pier View is only available via the Access and part of Pier View overhangs the Access.

Foreshore areas adjacent to the Pier

5.29 The areas of foreshore included in Order, to the North and South of the Pier (and both at the landward and the Birnbeck Island ends of the Pier), are relevant land on the basis that they are contiguous with and adjacent to the Pier and will be required for the purposes of conducting works to the Pier. The Council and RNLi envisage that, subject to appropriate tidal conditions, works to the Pier structure will be undertaken from the foreshore areas as this is realistically the only way of accessing the supporting structure of the Pier.

Birnbeck Island

- 5.30 Birnbeck Island is land contiguous to the Pier and only accessibly from the Pier. The compulsory purchase of the Pier, without Birnbeck Island being included as Relevant Land will sever access to Birnbeck Island. Its visual appearance is also essential to the future amenity of the Pier.
- 5.31 Birnbeck Island is required for preserving the Pier or its amenities or affording access to it as some works will be undertaken to the Pier structure from Birnbeck Island. Birnbeck Island is also required to be in the Council's ownership for the proper control of the Pier, as the Council must be in a position to control and regulate use of, and access to the Pier from Birnbeck Island. During and after the preservation of the Pier, the Council will continue to require to manage the use of the Island to ensure that the proper preservation of the Pier is not adversely impacted by activities on Birnbeck Island.

6. The Repairs Notice

- 6.1 A pre-requisite to making an order under S47 of the 1990 Act is the service of a repairs notice under S48, requiring steps to be taken for the proper preservation of the listed building.
- 6.2 In 2019, due to the increasing concerns regarding the preservation of the Pier, the Council worked with Historic England to explore options to protect the listed structure and its environs. Historic England provided grant funding to the Council to commission specialist engineers to undertake survey work and advise on the schedule of repair works necessary.
- 6.3 The Council sent two warning letters, dated 6th and 21st August 2019 respectively, to the Previous Owner stating that the Council was considering serving a Repairs Notice. There was no substantive response and the Council proceeded to issue the formal Repairs Notice on 9th September 2019.
- 6.4 No repairs or reinstatement of the structure have been carried out by the Previous Owner or Owner since the Repairs Notice was served in September 2019.
- 6.5 The Repairs Notice stated that a minimum of 2 months from the date of the Repairs Notice is required under the 1990 Act before a CPO can be made in order to provide sufficient opportunity for repairs to secure the preservation of the Pier. A year elapsed between the Repairs Notice being served and the Order being made.
- 6.6 The serving of the Repairs Notice and the public intention of the Council to proceed with the Order led to further dialogue with the Previous Owner, who appointed a new team of external consultants. The Previous Owner's consultants first contacted the Council on 30 April 2020. The Previous Owner's consultants suggested that they were intending to work up proposals to address 4 of the 25 items listed in the Repairs Notice, Schedule 2. Listed Building Consent for those works was granted. These four items constituted demolition and stabilisation works only. After consultation with Historic England, the Council advised the Previous Owner's consultants that in order to preserve and safeguard the Pier, the 4 items proposed should not be carried out in isolation but should instead form part of a detailed and comprehensive proposal to address all items scheduled in the Repairs Notice.
- 6.7 A meeting took place in July 2020 at which the Previous Owner's consultant team and representatives from the Council, Historic England were present. Once again, the Council and Historic England advised that detailed proposals for all 25 items listed in Schedule 2, together with confirmation of the proposed programme of works and confirmation of funding, would be required to demonstrate compliance with the Repairs Notice. A further meeting took place with the same participants on 20 August 2020, following the submission of an application for Listed Building Consent on 30 July 2020. The Council confirmed receipt of the application and advised that this was a separate process from the CPO. The application would be processed in accordance with the Council's normal procedures by the Local Planning Authority. The

application was dealt with by the Council's Conservation Officer, the planning case officer and Historic England's Principal Inspector of Historic Buildings and Areas for this part of North Somerset.

- 6.8 In addition, the Previous Owner telephoned the Council directly a number of times to discuss the potential for development on the Former Royal Pier Hotel site as a form of enabling development to provide funding for the required repairs to the Pier. On each occasion, the Council has made clear that proposals on the scale suggested would likely be contrary to planning policy and therefore planning permission for such proposals would unlikely to be granted. In any event, urgent works were required to the Pier itself at that stage and the potential for any meaningful return or profit from such proposals were too distant and remote. Therefore, even leaving to one side the wider acceptability of the proposals, they were unable to satisfy the urgent need for repairs.

7. Events Subsequent to the Council Making the Order

- 7.1 The Council made the Order on 18 September 2020. Relevant key dates relating to the Order are set out in the detailed timeline at Appendix 2.
- 7.2 On 27 October 2020, the Previous Owner applied to the Magistrates' Court for a stay pursuant to Section 47(4) of the 1990 Act on the basis that reasonable steps were being taken for the proper preservation of the Pier. That application was withdrawn by consent in November 2022. The Previous Owner agreed to make a contribution to the Council's costs. During the considerable time the Order was delayed because of the application, no steps were taken for the proper preservation of the Pier. The application for a stay to the Magistrates Court resulted in three procedural hearings at Weston and Taunton Magistrates Court (i.e 26 January 2022, 17 May 2022 and 28 July 2022), followed by the final hearing on 25 November 2022 when the Current Owner withdrew its application.
- 7.3 On 22 January 2021 title to the Order Land transferred to Birnbeck Holdings Ltd from CNM Estates (Birnbeck) Ltd. This followed an order from the High Court following litigation brought by the previous charge holder seeking to recover his investment in the Order Land.
- 7.4 On 18 February 2021, Listed Building Consent was granted for demolition and stabilisation works (Listed Building Application Number 20/P/1784/LBC) (Document H4).

Negotiations for acquisition by agreement

- 7.5 Since the Order was made, the Council has sought to both secure repairs and also to negotiate with the Previous Owner and the Current Owner to acquire the Order Land by agreement, principally through engagement with the sole statutory Director of the Current Owner and a director of the Previous Owner, Mr Wahid Samady.
- 7.6 Negotiations between the Current Owner and the RNLI did not produce an agreement. Both the RNLI and the Council have sought to acquire the Order Land by negotiation.
- 7.7 Heads of Terms were agreed Between the Current Owner and the Council in July 2021 and formal Council approval to complete the acquisition was secured in November 2021. Conveyancing documents were drawn up but it was not possible to secure the Current Owner's final agreement. As this had been a protracted exercise, the Council sought to bring matters to a close by seeking a deadline for completion in October 2022. Following a request from the Current Owner, this deadline was extended by a further two weeks however during this time the Current Owner sought to amend the agreed terms again. This was unacceptable to the Council so the offer to acquire was withdrawn.
- 7.8 The Heads of Terms were settled by the Council as a pragmatic means of avoiding the CPO process and the associated costs and time delay. The

extent of the negotiations between the Council and Previous Owners and the Current Owners, and the RNLl and the Previous Owners and the Current Owners will form part of the Council's case.

8. The Means and Resources Necessary Resources for Repair and Proper Preservation

- 8.1 Prior to the Order being made, the Council and RNLI entered into an agreement regarding the funding of the compulsory purchase process and initial principles regarding the future ownership and management of the order land. This agreement remains in full force and effect. Subsequent to the Order being made, and as a result of the long delays between Order being made and the Inquiry into its confirmation, the Council and RNLI have been active in looking at the best way to secure the future management of the Order Land and available funding sources. As a result, it is envisaged that a collaboration agreement will be entered into by the parties as is described in section 9 below.
- 8.2 In summary, the Council and the RNLI have reflected on the most appropriate responsibilities of each organisation to ensure the experience and capabilities of each organisation are employed to best effect.
- 8.3 The consideration of the future management of the Order Land proceeded on the basis that negotiations would be concluded with the Current Owner of the Order Land, with external funding being sought by the Council for the repair and preservation of the Pier. In November 2021, the Council resolved to enter into the collaboration lease agreement with RNLI providing the relevant principles and commitments between the parties. Officers were formally authorised to acquire the freehold of the Pier subject to funding being committed by RNLI and Historic England, or Levelling Up funding being available from central Government. In addition to funding from RNLI, funding was secured by the Council in 2022 from the National Heritage Memorial Fund, National Heritage Lottery Fund and from central Government's Levelling Up Fund (Documents I1, I2 and I3).
- 8.4 RNLI recognises the operational importance of the preservation of the Pier in allowing access to its assets on Birnbeck Island. As a result RNLI has committed to provide capital investment to repair and properly preserve the Pier through its own resources and with the support of the Council, access funding such as the National Heritage Memorial Fund. The RNLI has agreed to commit funds to the cost of its proposed Phase 1A of the preservation works to the Pier alongside that secured from the National Heritage Memorial Fund. The extent of the funding required, given the charitable nature of RNLI, means that such funding would only be committed by the trustees of the RNLI to preserve the Pier, if the Order Land is either within RNLI's ownership or is owned by the Council. Such funding must be limited to aspects of the project that directly further the RNLI's charitable objects (i.e. saving lives at sea via the restoration of access to Birnbeck Island). RNLI funding can only be applied to Phase 1A of the works to the Pier. RNLI's trustees would not be able to commit the significant resources required for works that are either outside of the RNLI's objects or would, on a direct or ancillary basis, generate a commercial return for private benefit.
- 8.5 Both parties have agreed that should the Order be confirmed, the freehold ownership of the Order Land would be vested in, and remain with, the Council,

with the RNLI retaining its ownership of the 1902 Boathouse and slipway on Birnbeck Island. Rights of access to the 1902 Boathouse will be regranted to RNLI. In addition, the Council will grant RNLI a lease of an area on Birnbeck Island for the construction and operation by the RNLI of a new Lifeboat Station, together with rights of access over the Pier and the Access.

- 8.6 The Council and the RNLI have been working in partnership for several years to secure the repair of the Pier and address the statutory protection of the Pier as a heritage asset, which will in turn enable the RNLI to return their lifesaving operations to the island. As part of this working relationship, both parties have reviewed their roles to ensure the skills and expertise of both is employed to best effect.
- 8.7 Whilst full partnership working will continue, the likely terms of an arrangement for future use will provide that the Council is best placed to hold the freehold of the Order Land and to make funding applications to Government and other external bodies, as it has the experience and track record to maximise success.
- 8.8 The RNLI will lead on Phase 1A, utilising their experience of engineering works in the marine environment. This is described in more detail in section 9 below.
- 8.9 The Council has experience in holding significant heritage assets that are controlled and managed by other through a lease and similar collaborative agreements. The Council owns Clevedon Pier (a Grade I listed building) which is leased to the Clevedon Pier Trust who have responsibility for its operation and maintenance.
- 8.10 It is anticipated that once the repair and proper preservation of the Pier have taken place a similar arrangement will be entered into with an organisation such as the BRT. The Council is working closely with the BRT to fully engage them in the repair process and to ensure that they have the capacity to take on the management of the Pier.

9. Proposals to Secure the Proper Preservation of the Pier

- 9.1 The current condition of the Pier is poor, with most of the decking missing, as well as some of the ornamental balustrades either missing or in need of urgent repair. The supporting trestle piles are largely intact but in need of urgent repair. The initial proposals to properly preserve the Pier are for:
 - 9.1.1 Removal of the existing failed deck to prevent it damaging the trestle legs;
 - 9.1.2 Replacement of the longitudinal beams that attach to the trestles and support the deck;
 - 9.1.3 Replacement of the bracing that ensures the structural stability of the trestles.
- 9.2 The Pier is closed and inaccessible and it is even unsafe for lifeboat crew to use the temporary walkway installed by RNLI. Substantial works, as are recorded in the Repairs Notice, are needed to the supporting structure and the remaining historic features of the Pier including those referred to in the listing entry.
- 9.3 Should the Order be confirmed, under the arrangements between the Council and the RNLI, the RNLI will commence works for the proper preservation of the Pier which will allow for public access to be re-established to the Pier and the island and also allow the Pier to be used by RNLI for access to its own land and assets on Birnbeck Island. A phased approach is envisaged, with the proper preservation of the Pier being secured by the initial Phase (which is referred to by the RNLI as **Phase 1A**).
- 9.4 Phase 1A will provide a minimum 2m wide walkway to Birnbeck Island. The walkway is intended to be an interim measure but will be capable of providing some public access to Birnbeck Island and facilitate re-instatement of the full deck. Services to Birnbeck Island will be included in this phase of works.
- 9.5 The works in Phase 1A would secure the proper preservation of the Pier and ensure that the existing historic fabric is not permanently lost. The works facilitate further phases which would then allow for the expansion of public access to the Pier and to Birnbeck Island in due course as funding streams are received.
- 9.6 Without these works proceeding it is unlikely the Pier would be preserved and will be lost. Without the title to the Order Land being secured in its entirety, the proposed phased works on behalf of the RNLI will not proceed and the proper preservation of the Pier will not be secured. It is clear therefore that there is a compelling case in the public interest for the Order to be confirmed. Without it, the Grade II* Pier, which plays such a vital part of the interpretation of the history of Weston Super Mare, will almost certainly be lost.

Later Phases

9.7 RNLI and the Council envisage the following later phases which will in due course facilitate increased public access to the Pier and to Birnbeck Island, which would be capable of being taken forward once the works for proper preservation of the Pier are carried out. There is clear and compelling public interest in these works that preserve the manner in which the Order Land operated historically and as at the date of listing for enhancing the appearance and function of the Pier, further illustrating the expediency of the acquisition. The later works phases envisaged may be summarised as follows:

9.7.1 RNLI Weston Lifeboat Station (Birnbeck 'Phase 1B')

The RNLI will construct a new lifeboat station on Birnbeck Island to house Weston's Atlantic 85 (B-class) and D-class Inshore Lifeboats, their launching tractors/ trailers and associated crew facilities. The existing launch and recovery ramp located north of Birnbeck Pier, adjacent to the 1888 Boathouse, will be upgraded and extended. The RNLI will also convert the redundant 1902 Boathouse and derelict slipway into a RNLI public engagement facility incorporating a souvenir shop. Related external works including launch/ recovery aprons and access/ circulation areas will be completed as part of these works.

9.7.2 Council Birnbeck Landside and Island repair and conservation works (Birnbeck 'Phase 2')

(a) This project, led by the Council, will deliver a programme of capital works over a two year period. Phase 2 will involve undertaking repair and conservation works to the following parts of the Order Land, to preserve the amenity of the Pier, affording access to it, and for its proper control and management:

(b) Works on the Landward side would include:

- Pier Master's Cottage (which will become the ticket office, retail, café and WC)
- Pier View (commercial let)
- Southern Toll House (commercial let)
- Historic gates and entrance

(c) Works on Birnbeck Island would include:

- Works to the listed Clock Tower
- Works to the original 1888 Boathouse / Lifeboat Station (it is currently envisaged this could comprise its conversion to self-catering accommodation as a funding stream for maintenance of the Pier)
- Works to Birnbeck Island pavilion

- (d) Works on the Pier would comprise additional works to provide a full width deck, unless this is carried out in an earlier phase. In addition to conservation and repair works, capital works also include upgrading the Access, public realm works to further preserve the amenity of the Pier, and potentially the installation of self-catering holiday pods on the cliff edge at the location of the former tea rooms north of the Pier Master's Cottage, to provide an additional income stream for maintenance of the Pier. There would also be the installation of interpretation throughout to aid public understanding of the history of the Pier.

Progress to Date

- 9.8 The RNLI have throughout the last 3 years had a professional team appointed to advise on the feasibility of the repair of the Pier and associated works. They have appointed a project manager and are currently progressing through internal procurement and authorisation processes for the appointment of the design team to undertake the consenting and procurement of the Phase 1A. This process is intended to be concluded in June or early July 2023.
- 9.9 In terms of investing in the proper preservation of the Pier, both the Council and the RNLI have gone as far as they are legally able, without actually owning the Order Land. Funding sources have been explored and secured. The RNLI have sought and obtained pre-planning application advice from the Local Planning Authority, following the same procedure as any other application for advice from the Council. Without the Pier being vested in the Council, neither RNLI nor the Council can be expected to commit substantial additional funds. However, it is clear that pragmatic and well considered solutions for properly preserving the Pier have been established and are likely to be implemented if the Order is confirmed.

10. Funding provision to preserve the Pier

- 10.1 Funding to carry out Phase 1A is in place through a formal partnership between the Council and the RNLI. For Phase 1A, the works are estimated to cost approximately £10m.
- 10.2 The funding sources that have been identified and secured are
 - 10.2.1 the National Heritage Memorial Fund Emergency Works (CAF) grant scheme;
 - 10.2.2 RNLI's own charitable resources, and;
 - 10.2.3 Historic England.
- 10.3 As set out in section 9 above, the work will be carried out by the RNLI and comprises strengthening and repairing the pier legs and cross braces and installation of an interim walkway to the island. In addition, the RNLI would separately fund the construction of a new lifeboat station on Birnbeck Island.
- 10.4 None of the external funding awarded to the Council, or RNLI's own charitable funding is available to the Current Owner, as these funds are only available to local authorities or established and experienced third sector, not-for profit organisations.

11. The role, experience and suitability of the Council and RNLI in the Proper Preservation of the Pier

- 11.1 The RNLI operate 238 lifeboat stations around the UK and Ireland. The RNLI are very experienced and have considerable experience in carrying out highly complex and specialised marine surveying, engineering, maintenance and construction work, as required at the Pier.
- 11.2 In addition, the RNLI have long standing contacts and strong working relationships with organisations including the Crown Estate, Natural England, Historic England and the Marine Management Organisation (“**MMO**”), the body responsible for marine licensing in English coastal waters).
- 11.3 RNLI have extensive experience of work on Piers and marine structure, including within the Severn Estuary area, at the Mumbles Pier.
- 11.4 The combination of the RNLI's lifesaving role, their identified need to re-establish a presence at Birnbeck Island, their access to funds and their expertise, make their involvement in contributing to the proper preservation of the Pier both expedient (in that RNLI will invest in the proper preservation of the Pier being secured as part of its replacement asset on Birnbeck Island) and compelling in the public interest.
- 11.5 With its extensive experience of regeneration and improvement projects on the seafront in Weston, the Council is experienced in working within the consenting matrix in the Weston area. The Council has been successful in securing external funding for this and other projects of this nature. In addition, the Council is already the freehold owner of Clevedon Pier.

12. Demonstrating the compelling case in the public interest for the proper preservation of the Pier

- 12.1 The Council's purpose in seeking to acquire the Pier and associated relevant land included in the Order is to secure the proper preservation and protection of the historic fabric of the Pier, through the proposed works to properly preserve the Pier by RNLI. This will preserve access by the public and re-establish safe access to Birnbeck Island by RNLI.
- 12.2 Given the historic significance of the Pier and the risk of it being lost if very substantial sums are not found, there is a clear and compelling case in the public interest for the Order to be confirmed. It is unrealistic to speculate that the proper preservation of the Pier can be secured without public ownership and considerable investment from funding such as that now identified by RNLI and the Council. This funding will only be available if the Order Land is acquired in its entirety.
- 12.3 In addition, confirmation of the Order will facilitate:
- 12.3.1 securing the Relevant Land for the appropriate repair and preservation of the Pier. This will also have the benefit of, in time, allowing the other listed buildings, other ancillary buildings and structures within the Order Land to be repaired to preserve the amenity of the Pier and which will better preserve the historic setting of the Pier, to explain its context and history as a key feature of the evolution of Weston-super-Mare;
 - 12.3.2 re-establish and preserve public access to the Pier and Birnbeck Island, via the Access and the Northern Access from Kewstoke Road to allow the Pier to perform the leisure function for which it was built and for the landward side to be equally accessible historically and as at the date of listing;
 - 12.3.3 enable the return of the RNLI to Birnbeck Island to provide 24/7 lifesaving operations for the Weston area;
 - 12.3.4 ensure a financially sustainable future to protect and maintain the Pier, working in partnership with the RNLI and a suitable custodian, such as the BRT;
 - 12.3.5 work in partnership with external funders including the National Heritage Memorial Fund, The National Lottery Heritage Fund and the Governments Levelling Up Fund, all of which have committed funds to the long term preservation, conservation and repair works to enable the re-establishment of public access to the Pier;
 - 12.3.6 create new opportunities and activities for residents and visitors alike to learn about the history of the Pier and its role in the development of the town of Weston;

- 12.3.7 enable the Pier to act as a catalyst for the longer term economic development and social capital of the local community in Weston-super-Mare, including opportunities for education, job creation, training and volunteering.
- 12.4 The proper preservation of the Pier is of itself a compelling reason for the confirmation of the Order. However the compelling nature of the wider reasons for the acquisition of the Pier and the Relevant Land add to the public interest in confirmation of Order. The Pier and Relevant Land together coming into the Council's ownership will make funding available for the proper preservation of the Pier. Without the intervention of the Council it is very likely the Pier will be lost.

13. Short, medium and long term governance arrangements

- 13.1 In the short term, the Council will own and manage the Order Land, including the Pier. A collaborative partnership agreement will be in place between the Council and the RNLI to enable access for the RNLI to the island and provide for a lease of land for the construction of the new Lifeboat Station and the re-establishment of their lifesaving services from the Pier and island. Both parties will contribute their expertise to best deliver the required works.
- 13.2 Running in parallel to this process, is work to develop and strengthen the structure and membership of the proposed charitable management body, to arrange for ongoing governance, trustee and management structures suitable for management of the Pier.
- 13.3 In the long term, the managing body, such as BRT, will take on the day-to-day running and management of the Order Land but the freehold will remain with the Council. This is the same model that exists at Clevedon Pier further along the North Somerset coast and which has been very successful in the preservation and ongoing management of the Grade I listed pier in Clevedon.

14. Funding, viability and long term financial sustainability

14.1 The Council has been successful in securing almost £20m of external funding. In addition to the funding for RNLI's Phase 1A, further funding has been secured by the Council since the Order was made, including;

14.1.1 £1m from Historic England to contribute to the cost of repairs and the legal process. This is in addition to further funding previously secured to undertake the Repairs Notice process. £600,000 has already been allocated to the Phase 1A works;

14.1.2 £4.471m from the Government's Levelling Up Fund for the conservation and reuse of various buildings and structures on the landside and island to provide visitor facilities to create a sustainable income stream to ensure proper future ongoing maintenance of the heritage asset . Expenditure of the grant is required by 31 March 2025;

14.1.3 Stage One approval from the National Lottery Heritage Fund for a £4.75m grant to undertake repairs to various buildings and structures. The Development phase grant of £234,761 (to be completed by September 2024) has been released to fund the appointment of a technical team to bring forward detailed repair proposals and begin the consenting process, the appointment of a Community Engagement Officer and the development of an Activity Plan to ensure the community are fully engaged.

15. Responses to Objections

- 15.1 There is one remaining objection to the confirmation of the Order, originally made by Previous Owner, and now adopted by the Current Owner.
- 15.2 The objections were contained in a Letter of Objection to the Secretary of State dated 27 October 2020 (Document G1) submitted after the Order was made and confirmation sought by the Council.
- 15.3 The Council's response to those objections are set out in the following paragraphs, adopting the paragraph numbering in the Letter:

Introductory Paragraphs:

| Para no. | Response |
|-----------------|-----------------|
|-----------------|-----------------|

- | | |
|--------|---|
| 1-5. | The Council has no comments on paragraphs 1-5. |
| 6. | The Council disagrees that the Previous Owner and Current Owner have undertaken reasonable steps for properly preserving the Pier and to address the Repairs Notice. Despite extensive negotiations between 2020 and 2022, no substantive proposals have been put forward by Previous Owner and Current Owner to work with the Council or the RNLI. |
| 7. | The Council will demonstrate that the Secretary of State should confirm the Order. |
| 8-10. | The Council agrees with the content of paragraphs 8-10 of the Objection. |
| 11-14. | The Objection outlines various documents of record regarding applications for listed building consent and discussions with the Council. |
| 15. | The Objection states that experienced professional advisors have been appointed and that it will facilitate the comprehensive repair of the Pier. The Council will provide evidence to demonstrate that no work for the comprehensive, or any, repair or preservation of the Pier have been taken since the Order was made, or indeed since the Repairs Notice was served. The Objection states that the Current Owner is working towards the redevelopment and regeneration of the surrounding area. The Council acknowledges that planning permission has been sought for a neighbouring site but the relevance of that application to the proposed compulsory purchase of the Pier will be placed in its proper context in evidence. |
| 16. | The Objection notes "considerable ongoing mention that some running costs associated with the Pier must be carefully factored into any public interest appraisal of the proposed compulsory acquisition". The Council will, in demonstrating that it is expedient for the Secretary of State to confirm the Order, show that the Council has fully considered ongoing maintenance and running costs and believes that public ownership of the |

Order Land is the most appropriate way forward to ensure the preservation of the Pier in the longer term.

At paragraph 16(v) it is stated that the Council's justification for the extent of the compulsory land take depend on wider regeneration proposals. The Council has fully considered the cost of proper preservation of the Pier and believes that this will only be secured by acquisition of both the Pier and Relevant Land as included in the Order, to provide for access for the preservation works and also to secure the longer term maintenance and continued preservation of the Pier and its amenities. Further, the Council does not accept that there is anything "highly misleading" or that it has denigrated discussions on enabling development. The Council has seen no evidence to demonstrate that cross-funding or other similar proposals are planned, demonstrating that adjacent land would provide adequate and timely funding for repairs to the Pier. The Council and RNLI intend that, following the proper preservation of the Pier, sympathetic and sustainable development of the Pier and Relevant Land for visitor supporting facilities will be provided, as a source of income for the future maintenance of the Pier.

17. The Objection letter records RNLI's longstanding history in connection with the Order Land. The Council makes no comment on the level of contributions to maintenance made, or the relevance of such contributions.
18. Reference is made to negotiations between the Previous Owner and RNLI. The Council and RNLI will set out in evidence the nature of those discussions, subject to any constraints due to discussions taking place on a confidential basis.
19. The Objection refers to the breakdown of discussions and also to those discussions being a justification for the delay in commencing works of repair to the Pier. However, in the three years that have passed since the events discussed, no meaningful works to repair the Pier have been undertaken.
20. The Objection states that it has always been willing to work collaboratively with the Council and RNLI. The Council will provide evidence that after extensive discussions agreement could not be reached.
21. The Objection acknowledges the Pier being closed to public interest with an exclusion zone in force and that the Pier is in a state of disrepair.
22. The Objection states it is committed to the repair and preservation of the Pier as well as comprehensive redevelopment, whilst setting out that the Pier is an exceptionally challenging project in a challenging location, requiring a range of consents. The Council will provide evidence to demonstrate that no reasonable steps have been taken to allow for the proper preservation of the Pier.

23. Paragraph 23 notes the serving of the Repairs Notice.
24. The Objection states that there are a number of inaccuracies in the report to members authorising the making of the Order. This is not accepted by the Council, which continues to rely on the resolution which was not subject to challenge in the High Court.
25. & 26. Paragraphs 25 and 26 record the post order making process.

Response to Grounds of Objection

Ground

1. Reasonable steps taken for preservation of the Pier, paragraphs 28 to 37 of the Objection

The Council will respond in its evidence but there have been no reasonable steps on site for the proper preservation of the Pier have been taken since the Order was made. Such applications as have been made for consents have not been comprehensive nor have they been pursued with any substance or diligence by the Previous Owner and Current Owner. The applications for Listed Building Consent that were made have not been implemented and represent only a small part of the required actions in the Repairs Notice.

A number of suggestions are made that the Council has delayed rather than facilitated repair work, which is not accepted. No reasonable steps for proper preservation have been carried out to the Pier for several years.

At paragraph 37, it is suggested that the global pandemic has impacted on the ability to access the Pier and carry out surveys. It is assumed that this part of the Objection is no longer relevant to explain the delay in taking the repair of the Pier forward.

2. No compelling case in the public interest, paragraphs 38 to 41

The Council relies on the contents of this Statement of Case and its Statement of Reasons (Document A5) to demonstrate why there is a compelling case in the public interest for the proper preservation of the Pier and for the making (and confirmation) of the Order.

The Council does not accept the assertion in paragraph 38 of the Objection that the Council's case for compulsory acquisition, in relying on the Previous Owner's inaction (and on RNL involvement), is "manifestly flawed". Despite an extremely lengthy period of time having elapsed since the making of the Order no real progress has been made regarding the proper preservation of the Pier and there is no evidence that the Previous Owner's or Current Owner's proposals have been fully developed or have suitable funding.

The Council has seen no evidence that funds are available to repair the Pier as suggested in paragraph 41 of the Objection, or that such funds will

be available within a reasonable timescale to allow for the urgent need for works for the proper preservation of the Pier. This contrasts with the substantial funding that is available to the Council and RNLI.

The Council and RNLI have used the time since the Order was made to develop their proposals to an extent that pre-planning consultations have occurred and consultants are appointed to take forward the works needed for preserving the Pier. Funding sources have been identified and funding secured – the most important element for securing the proper preservation of the Pier, given the substantial funds needed for proper preservation to occur.

3. The RNLI, paragraph 42

The Council notes the suggestion that RNLI's involvement could be provided for by voluntary acquisition and that the Previous Owner was willing to engage with the Council and RNLI in that regard. Discussions did proceed following making of the Order but did not come to fruition.

The parties have not been able to reach a negotiated agreement for the works to facilitate the proper preservation of the Pier. Given the time that has been lost since the making of the Order it is clearly in the public interest for the Order to be confirmed and there is a clear and compelling case in the public interest.

Further, given the sources of funding identified and there being little likelihood of any proper preservation being able to secure commercial funding, it is essential the Pier is in public ownership before funding can be released for the proper preservation of the Pier. The charitable status of the RNLI means it would not have access to funds to support commercial interests but can access funds for the proper preservation of the Pier if the Pier is in public ownership. RNLI has a long track record of preserving repairing and managing buildings in the marine environment.

4. Funding and viability, paragraphs 43 to 47

The Council and RNLI have been successful in securing a number of funding sources for the proper preservation of the Pier and for its future maintenance and management. As the Council explains elsewhere in this Statement, the intended structure that is referred to in the Statement of Reasons (and commented on in paragraphs 43-47 of the Objection) has now moved forward and a revised structure for the future ownership of the Pier and relevant land is anticipated. At paragraph 44 of the Objection it is noted that the restoration costs were anticipated to be in the region of £8,000,000 in May 2020. As is explained elsewhere in the Statement of Case such funding is now identified for the proper preservation of the Pier.

In paragraph 46 of the Objection it is stated that the Council has underestimated compensation liabilities. It is the Council's case that there is now sufficient funding available, separate to the funding for the proper preservation of the Pier for land acquisition. The Council has access to

funds not only for the proper preservation of the Pier but also to adequately fund any reasonable compensation liabilities for the transfer of ownership of the Pier by compulsion. The Secretary of State can be satisfied that in accordance with the Circular, sufficient funding will be available to the Council to satisfy all compensation liabilities.

In respect of paragraph 47 of the Objection, the Council is confident that it can demonstrate to the Secretary of State's satisfaction that the required means and resources will be available to preserve the Pier, as well as to provide for ongoing maintenance. It is not expected the Pier will become independently financially viable but there is potential for some ongoing income opportunities from leisure, catering and accommodation offers in parts of the Relevant Land in the medium term. It is however clear that funding for the proper preservation of the Pier is only likely to be available from public sector, charitable and grant funding, in particular from the RNLI being able to re-establish its presence on Birnbeck Island.

5. Impediments to the proper preservation of the Pier, including other consents required, paragraphs 48 and 49

In paragraphs 48 and 49 of the Objection, it is stated that relevant consents have not been secured by the Council or RNLI . The Objection notes that the same consents are required for both the owner or the Council to take forward the works.

Since the Order was made, the Council has concentrated on securing funding for the proper preservation of the Pier and on working with its stakeholders to plan for the appropriate future for the Pier following its preservation.

The Council and its development partners are devising a comprehensive programme for applications for the relevant consents to the local planning authority and MMO. The Council believes there is no reason to envisage that there will be any impediments to those consents being secured.

6. Extent of Order land, paragraphs 50 to 52

The Council in this Statement has demonstrated that the extent of the Order Land is fully justified on the basis that it consists of the Grade II* listed Pier and other relevant land. For the reasons set out in section 5, the Council considers that all of the land in the Order that is not the Pier itself, is 'relevant land' for the purposes of Section 47(7) of the 1990 Act.

The Council does not agree that the Order land has been drawn too widely and is unrelated to the proper preservation and/or management of the Pier nor that the Council has acted in an oppressive manner in so doing.

The Council case is that the proper preservation of the Pier will only be achieved by the securing not just the Pier itself, but also the landward and island parts of the Pier, including the accesses to the highway, as contiguous or adjacent land, in the first instance. The consequence of this

is that access to Birnbeck Island, the Pier Master's cottage and Pier View are not severed from the highway and inaccessible. Each of the areas are required for preserving the Pier and its amenity, and the accesses from the highway must be secured to allow the Council access for the preservation and thereafter maintenance of the Pier. The Access from Birkett Road must be in the ownership and control of the Council for the works of the Pier to commence. The access north to Kewstoke Road is required to provide a pedestrian access to the Pier and to ensure the amenity of the Pier is preserved. The Foreshore is required for the proper preservation works to be carried out.

The Council has both a clear idea as to why the land will be required as 'relevant land' for the purposes of the proper preservation of the Pier and as to how the land would be used in the longer term to continue to support the proper preservation of the Pier structure after the initial repair works are carried out.

7. Delay caused by the Council, including lack of proper engagement, Paragraphs 53 to 68

The Objection suggests that, through delays and failing to engage with the Previous Owners and its advisers, the Council has delayed the comprehensive redevelopment of the Pier and surrounding area. The Council will respond in evidence and will also rely on the fact that since the Order has been made it has supported RNLI in its negotiations and itself sought to conduct negotiations with the Previous Owner and the Current Owner.

In paragraphs 56 and 57 the suggestion is made that the Previous Owner was disadvantaged by how the Council resolved to make the Order and by failing to provide relevant information. The Council continues to rely on its Report to members (Document D1) and considers that no procedural unfairness or other failing occurred. The Council notes that the resolution (Document D2) has not been challenged by way of judicial review.

In paragraph 58, it is suggested that the Council has inappropriately requested information and has acted in a highhanded and oppressive fashion. The Council does not recognise the complaints made in that paragraph and will respond further when it receives the Current Owner's Statement of Case and evidence in regard to this objection.

Paragraphs 59 – 65 deal the determination of Listed Building Consent and similar. The Council does not accept the suggestions made but notes that listed building consent referred to was issued, but it appears has not been implemented .

In paragraphs 66-67, comments are made on RNLI's proposals and refer to an apparent "material unfairness" by the Council refusing to share RNLI's proposals for the Pier and Island. It is also suggested that RNLI's proposals are limited and will not generate funding to provide for the long term maintenance of the Pier.

Events have of course moved forward since the Objection being made and the Council will provide evidence of how it has now secured funding for a sustainable future to ensure the proper preservation of the Pier.

At paragraph 68 it is suggested that there is a lack of proper attempts to negotiate with the Previous and Current Owners. To the extent that it can, having considered any privilege that may attach, the Council will provide the Inquiry with evidence of extensive negotiations that have been carried out with both, with a view to securing a negotiated solution to the current position.

The conclusions in paragraphs 69 and 70 are noted. For the reasons set out in this Statement of Case, the Council believes there is a compelling case for the Order both in terms of the proper preservation of the Pier and in relation to the extent of the land sought in the Order.

16. Planning Policy

Planning Policy

16.1 The relevant planning policies are the key extracts from the National Planning Policy Framework 2021 (NPPF) (link at B4), the North Somerset Core Strategy (2017) (link at C1) the North Somerset Sites and Policies Part 1 Development Management (2016) and Part 2 The Sites allocation Document. The Weston-super-Mare Town Centre Regeneration Supplementary Planning Document (link at C3) and Great Weston Conservation Area Appraisal and Management Plan (link at C4) are also relevant.

National Planning Policy Framework 2021

16.2 In Chapter 16 - Conserving and enhancing the historic environment - para 184 states that heritage assets are "an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations".

16.3 Paragraph 197 (a) states that in determining applications, local authorities should have regard to "the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation...".

North Somerset Council Core Strategy (2017)

(a) Policy CS5- Landscape and the historic environment

Historic environment

16.4 This policy states the council will conserve the historic environment of North Somerset, having regard to the significance of heritage assets such as conservation areas, listed buildings, buildings of local significance, scheduled monuments, other archaeological sites, registered and other historic parks and gardens. Particular attention will be given to aspects of the historic environment which contribute to the distinctive character of North Somerset, such as the Victorian townscapes and seafronts in Weston and Clevedon.

(b) Area Policy CS29 Weston-super-Mare Town Centre

- 16.5 This policy indicates as background that Weston's town centre has suffered from a lack of major investment over the last thirty years. The town centre is perceived to be uncompetitive with other centres in the sub-region because of access constraints and its relatively poor retail offer. Due to its coastal location Weston's town centre is, to a certain extent, constrained in terms of expansion. However, this coastal setting is also the town's main asset. The planned expansion to Weston over the next twenty years through the development of the Weston Villages totalling 6,500 new homes balanced with significant employment growth, will see an increase in demand for shops, services and leisure facilities. Weston's town centre needs to meet this demand in order to secure future self-containment of the town and to fulfil its role within the district and the sub-region.
- 16.6 Tourism and leisure activities have traditionally played an important role in Weston's economy. The council recognises that tourism is an important part of the town's economy, but also recognises that Weston currently caters for a relatively small section of the tourist market. In order to retain its role as a tourist destination Weston needs to broaden its appeal and tap into the wider tourist market offering attractions, events and accommodation which will attract a varied range of visitors.
- 16.7 The strengthened role of Weston town centre needs to include an expansion of employment opportunities. The economic regeneration of Weston - super-Mare is a key strategic aim of the Council. This is to be achieved through the promotion of a more sustainable balance between employment and housing. Traditionally the lack of employment opportunities in Weston-super-Mare has resulted in significant out-commuting. Increasing local employment opportunities will assist in minimising the number of residents who commute to work at destinations outside the town, increase the self-containment level of Weston and result in a larger labour force which will support and sustain the services and facilities in the town centre.
- 16.8 In the key policy relating to Birnbeck Pier, it is stated that priority will be given to regeneration of key redevelopment sites such as the Tropicana and Birnbeck Island. Development proposals in this area should-
- 16.8.1 Have consideration for the sequential approach to development based on the National Planning Policy Framework and not prejudice the vitality and viability of the retail core, but instead should complement activities in the town centre
 - 16.8.2 Strengthen pedestrian and visual links and connections between the seafront and the retail core
 - 16.8.3 Be of the highest quality design which will enhance the visual appearance of the seafront and promenade.

Development management policies: Sites and Policies Plan Part 1

- 16.9 This document states that heritage assets are a finite and irreplaceable resource. They are a highly valued and essential part of North Somerset's

cultural and local distinctiveness, and often promote community cohesion and identity through a legacy of having created a unique sense of place. When in active viable uses they help to promote economic vitality including tourism. North Somerset's heritage policies are designed as a strategic framework to guide the protection and enhancement of its heritage assets whether or not formally designated. Subject to the availability of resources the Council will seek to formulate a comprehensive heritage management strategy engaging with local communities to promote the value of their heritage, and where necessary develop further measures to manage, protect and enhance it for the benefit of future generations.

16.10 Numerous policies are applicable to Birnbeck Pier:

(a) DM3 – Conservation Areas

Policy Aim – To conserve and wherever possible enhance North Somerset's conservation areas

(b) DM4- Listed Buildings

Policy Aim – To safeguard the special architectural and historic interest of North Somerset listed buildings, their features inside and out, as well as their settings.

(c) DM5- Historic Parks and Gardens

Policy Aim - To safeguard the rich and varied built, historic and natural heritage of North Somerset.

(d) DM6 – Archaeology

Policy Aim – To safeguard as yet unidentified heritage assets.

(e) DM7- Non-designated Heritage Assets

Policy Aim- To safeguard as yet unidentified heritage assets

Weston-super-Mare Town Centre Regeneration – Supplementary Planning Document (SPD)

16.11 The area within which the SPD will apply is the town centre regeneration area as set out in the Site Allocations Plan Consultation Draft (March 2016). Whilst the guidance set out in the SPD applies within the designated area, regeneration and restoration is not limited to this. The renaissance of the Tropicana and potential restoration of **Birnbeck Pier** will contribute to the overall regeneration aims. Links with the area beyond the town centre by promoting access to the wider landscape are required as well as measures aimed at encouraging residents living in the suburbs and further away to use the town centre.

Seafront Character Area of the Great Weston Conservation Area Appraisal and Management Plan

16.12 The seafront is characterised by the long sweep of Weston Bay, with hotels, institutions and blocks of flats on Beach Road facing the Bristol Channel across the expanse of lawns (link at C5). From Marine Parade there are long views north, west and south. Moving north beyond the Grand Pier the scale

reduces, with smaller buildings and terraces coming closer to the Esplanade and providing some containment. Knightstone Island provides a vantage point across the bay to the town centre. The headland at Birnbeck Pier is craggier, less formal, with sinuous terraces responding to the topography. From their raised position, Prince Consort Gardens offer views across the bay and to the islands and the South Wales coast. The Birnbeck area includes some of the town's earliest seaside developments. Both piers are important in the townscape, affording long views across the town. Birnbeck is notable for its famous designer, the pier engineer Eugenius Birch and its historical associations with the former steamer services. At the southern end of the character area the expansive Beach Lawns create a formal character with long views. This space is edged by large hotels, B&Bs and Victorian houses looking across the bay. New flood and tidal defence scheme in 2007-10 enabled the widening of the promenade, with new paving, lighting, seating and art works.

16.13 Views of the sea and across the bay can be experienced not only from the seafront, but also from glimpses down roads and between buildings in adjacent parts of the conservation area. Further north, the Prince Consort Gardens gives panoramic views of the Severn Estuary, as well as Birnbeck Pier. The entire conservation area can be viewed from Knightstone Island, looking north towards Worlebury Hill / Weston Woods, east towards the Town Centre and south along Beach Lawns. Beach Lawns can be seen in southern views from Royal Parade. Birnbeck Pier, whilst no longer publicly accessible, once afforded fine views towards the town and across the bay.

16.14 For the Birnbeck Road area the document refers to:

16.14.1 Rising slope towards Birnbeck Pier which is less formal, with terraces curving in response to the topography

16.14.2 Prince Consort Gardens offering views across the bay and gives an open setting for the Gothic villas at Westcliff

16.14.3 The stretch of Birnbeck Road with Claremont Crescent has an enclosed and winding character, with glimpses of the sea along alleyways down to Anchor Head

16.14.4 Birnbeck Pier is Grade II* listed, built in 1867, the dominant feature in the sub-area

16.14.5 Strong group value of the terraces.

North Somerset Council Corporate Plan 2020/2024

16.15 Relevant core policies relating to Birnbeck Pier from the Plan (link at C6) are –

- A thriving and sustainable place
- A great place for people to live, work and visit

- An attractive and vibrant place for business investment and sustainable growth
- A council which empowers and cares about people
- Partnerships which enhance skills, learning and employment opportunities
- An open and enabling organisation
- Engage with and empower our communities
- Collaborate with partners to deliver the best outcomes.

NSC emerging Placemaking Strategy for Weston-super-Mare

16.16 The Council is developing a ten-year vision for Weston-super-Mare, following extensive consultation with thousands of businesses, visitors and residents. The strategy aims to reposition Weston, addressing the challenges of the long term decline in the traditional retail led High Street and changes to visitor patterns. The document has recently been published (link at C2). The new vision has a set of themes and ambitions for the town, focused around wellbeing and recreation, being green and low carbon, a great place to live, work and study, and critically helping the visitor economy and the town centre adjust to fundamental changes accelerated by coronavirus. It sets out a series of interventions and projects to reinvigorate the town by attracting new businesses, residents and visitors and provide better opportunities for the community. One of the key projects included in the document is the preservation of Birnbeck Pier, not only saving this Grade II* historic structure but enabling the RNLI to return to their base and public access once again to the Pier and Birnbeck Island. Public access to the Pier will also be key to attracting visitors and the regeneration of this area of the town.

Listed Building position

16.17 The Pier is a Grade II* listed structure which comprises the main Eugenius Birch designed pier bridge together with the buildings and structures within the curtilage of the Pier that were built before 1948. These 'curtilage-listed' buildings include several buildings on the island and the foreshore, some of which were designed by Hans Price and several concrete structures built at the time the Pier was 'HMS Birnbeck' in WWII. There are also several Grade II listed buildings, which although they lie within the curtilage of the listed Pier, are also listed in their own right; these are the North Jetty, the Clock Tower, the Toll House and the Entrance Gates and Turnstiles.

16.18 As a result, any works for the demolition, or the alteration or extension of any of these elements require listed building consent under Section 7 of the 1990 Act. This is to ensure that any works to the listed elements are carried out in a manner which aims to protect their character and special architectural or historic interest. This also reflects the aims which are in the Council's local policies CS5, DM3 and DM4 as set out above.

- 16.19 The Pier also lies within the Seafront Character Area (link at C5) of the Great Weston Conservation Area which is protected under Section 72 of the 1990 Act. Any proposals within this designated area should preserve or enhance the conservation area. The Pier is a local landmark building and a key character element to this conservation area. As a result, and under Section 71 of the 1990 Act, the Council produced the Conservation Area Appraisals and Management Plan for the Great Weston Conservation Area, within the Management Plan, which was adopted on 4th December 2018. The Pier is a priority action for the Council.
- 16.20 After the collapse of the North Jetty, the Council served a dangerous structure notice under Section 77 of the Building Act 1984 on the Owner. As a result, the Owner applied for Listed Building Consent to demolish this structure within the Order Land. This was granted in October 2016 due to the deteriorated state of the Jetty and the danger it presented to the public. This consent has not been implemented and expired in October 2019.
- 16.21 Further to the adoption of the Great Weston Conservation Area Appraisal and Management Plan (link at C4), the rapidly deteriorating state of the Pier and the lost section of the ornate seating and railings on the Pier, the Council served a Repairs Notice under Section 48 of the 1990 Act. Recent communications from the Owner regarding some selected items from the Repairs Notice schedule of works have been received but these are not comprehensive proposals for full compliance with the Repairs Notice.
- 16.22 In 2022 another substantial piece of the ornate seating and railings of the main Grade II* Eugenius Birch designed Pier has been lost. As a result, the Council takes the view that it has no choice but to proceed with the Order under Part I, Chapter V, Section 47 of the 1990 Act in order to secure the preservation of the Pier.
- 16.23 The acquisition of the Pier by the Council will result in the proper preservation of the Pier through working with a reputable and experienced third-party partner to give the Pier a realistic and viable future. Protecting its character, architecture and historic significance as well as enhancing this part of the conservation area, will significantly contribute to restoring and regenerating this part of the town as a vibrant and celebrated area of Weston for future generations.

Historic England - relevant guidance on Compulsory Acquisition of Listed Buildings

- 16.24 The Council has had full regard to Historic England's guidance on Compulsory purchase powers together with "Stopping the Rot - A guide to enforcement action to save historic buildings", Published by Historic England on 15 April 2016, updated in January 2023 (Document B3). The Council believes its actions fully comply with the guidance provided and the Council has the support of Historic England.
- 16.25 The Council notes the Secretary of State will only confirm the Order if satisfied that:

- Reasonable steps are not being taken to preserve the building
- That it is expedient that the building should be preserved
- That it should be compulsorily purchased to ensure its preservation

16.26 In other words, it is not sufficient that the owner is neglecting the building. There has to be a credible plan in place to secure the building's future. That plan may include a proposal to immediately transfer the property to a building preservation trust upon acquisition.

16.27 The Council believes that the plans for:

- restoring the Pier to re-provide access suitable to support the RNLI lifesaving facility on Birnbeck Island; and
- facilitating public access to the Pier, which will also assist in providing a sustainable income stream to support the maintenance of the Pier

fully justify the Secretary of State confirming the Order.

DCMS Circular – The Upkeep and repair of Historic Buildings, March 2022

16.28 In March 2022 the Department published short guidance on the upkeep and repair of historic buildings, including on use of S47 of the 1990 Act. Paragraph 1 states:

There is no specific duty on owners to keep their buildings in a good state of repair but local authorities have powers to take action where a designated heritage asset has deteriorated to the extent that its preservation may be at risk.

16.29 It is the Council's case that the Pier has deteriorated to the extent that its preservation is at risk.

16.30 After explaining the purpose of repairs notices the Guidance states at paragraph 7 that, for repairs notices authorities should consider their use in cases where protracted failure by an owner to keep a listed building in reasonable repair places the building at risk.

16.31 The principal paragraphs on compulsory purchase are to be found from paragraph 10. The Council believe that, for the reasons explained in this statement, the Guidance is fully met by the council's making of the Order because:

The Secretary of State can be satisfied that reasonable steps are not being taken for the proper preservation of the Pier

- It is expedient to make provision for the preservation of the Pier, because RNLI can resume use of Birnbeck Island and public access to the Pier and Birnbeck Island can resume.

- The Council and RNLI have the resources available to secure the proper preservation of the Pier.

16.32 The Guidance also encourages, in paragraph 11, the identification of a suitable body, such as a building preservation trust which has access to funds to carry out repairs. The Council is working with RNLI which has access to funds and the Council itself has access to funds, for the necessary repairs and propose to include a suitable trust to be responsible for the proper management of the repaired Pier.

17. Planning permission and other consents

- 17.1 Planning permission and listed building consent will be required from the local planning authority as well as consideration of the need for habitats regulations approvals from Natural England for the works required for the proper preservation of the Pier. Marine licences from the MMO will also be required.
- 17.2 RNLI has engaged external consultants and has held pre application discussions with the relevant organisations as well as the Crown Estate (Document G2).
- 17.3 The Council and RNLI are not aware of any reason why the required consents, Habitats Regulations approvals and marine licenses would not be forthcoming, following applications to the relevant statutory authorities.
- 17.4 Whilst the relevant consents are not yet available to RNLI, the Council believes it would not be expedient to delay seeking compulsory powers until such time as all relevant consents have been secured. To do so would give rise to further risk that the Pier will deteriorate and not be capable of economic repair. The support of Historic England, the expertise of RNLI and the sympathetic nature of RNLI's emerging proposals fully justify the approach of compulsory powers being sought in parallel with RNLI's processes for securing the required consents for works to the Pier.

Environmental designations of the Order Land and in the surrounding area

- 17.5 Part of the Order land is designated under a number of separate environmental designations including a Site of Special Scientific Interest (SSSI) a Special Conservation Area (SAC), a Special Protection Area (SPA) and a Ramsar site.

Severn Estuary Site of Special Scientific Interest (SSSI)

- 17.6 Part of the Order Land is within the Severn Estuary SSSI as an estuary coastline feature. An SSSI is a UK conservation designation that denotes an area that is of particular interest to science due to wildlife, geology or landform features of special interest. The immense tidal range of the Severn Estuary is the second or third (depending on the reference source) highest in the world. The estuary's overall interest depends on its large size, and on the processes and interrelationships between the intertidal and marine habitats and its fauna, internationally important populations of waterfowl plus internationally and nationally important collections of fauna invertebrates and fish. In particular, the SSSI is of international importance for wintering and passage wading birds, with total winter populations averaging about 44,000 birds. Numbers can be considerably higher during severe winters.

Severn Estuary/Mor Hafren Special Area of Conservation (SAC) (UK0013030)

- 17.7 The Order land is partly within the Severn Estuary/Mor Hafren SAC. Special Areas of Conservation (SACs) are sites that have been designated under EU Habitats Directive for the conservation of certain habitats and species of

European interest. The habitats that are the primary reason for selection of the Severn Estuary/Mor Hafren SAC (Annex 1 of Designation) are –

- Estuaries
- Mudflats and sandflats not covered by seawater at low tide
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)
- The species that are a primary reason for selection of the Severn Estuary/Mor Hafren SAC (Annex II of Designation) are -
- Sea lamprey *Petromyzon marinus*
- River lamprey *Lampetra fluviatilis*
- Twait shad *Alosa fallax*

Severn Estuary Special Protection Area (SPA)(UK9015022)

17.8 The Order land is partly within the Severn Estuary SPA. An SPA is a designation under the EU Birds Directive³ for the conservation of wild birds.

- Article 4.1 Qualification 79/409/EEC: Over winter the area regularly supports Bewick Swan, *Cygnus columbianus bewickii* (Western Siberia/North-eastern & North-western Europe). 3.9% of the GB population.
- Article 4.2 Qualification 79/409/EEC: Over winter the area regularly supports Gadwall, *Anas strepera* (North-western Europe). 0.9% of the population.
- Greater White Front Goose *Anser albifrons* (North-western Siberia/North-eastern
- & North-western Europe). 0.4% of the population.
- Dunlin, *Calidris alpina* (Northern Siberia/Europe/Western Africa) (3.3% of the Population)
- Shellduck, *Tadorna* (North-western Europe) (1.1% of the population)
- Redshank, *Tringa totanus* (Eastern Atlantic - wintering) (1.3% of the population)
- Article 4.2 Qualification 79/409/EEC) - An internationally important assemblage of
- birds: Over winter the area regularly supports: 84317 waterfowl (5 year peak
- mean 1991/92-1995/96), including Bewick Swans, Shellduck, Gadwall, Dunlin and
- Redshank.

(All numbers are 5 year peak means 1991/2-1995/6)

RAMSAR Designation

17.9 The Order land is also partly within the Severn Estuary Ramsar site which is included as a designated wetland site in the Ramsar List of Wetlands of international importance which was drawn up following the UN RAMSAR Convention in 1971.

18. Other Impediments and other considerations

- 18.1 RNLI has engaged in pre-application discussions with both the Council and Historic England regarding the proposals for the proper preservation and use of the Pier.
- 18.2 RNLI has a clear strategy for obtaining all required planning and similar consents.
- 18.3 Given its working relationship with The Crown Estate, RNLI and the Council do not envisage any impediment arising from the need to obtain Crown licences for use of the estuary areas in the ownership and management of the Crown Estate.
- 18.4 It is not envisaged there are any significant impediments to the works for the proper preservation of the Pier.

19. Human Rights and Equalities

- 19.1 Section 6(1) of the Human Rights Act 1998 renders it unlawful for a “public authority” to “act in a way which is incompatible with a Convention right”. Section 6(3) defines public authority as “any person certain of whose functions are functions of a public nature”. A local authority exercising its statutory powers by making a CPO is exercising a function of a public nature but is doing so in accordance with law and subject to the provisions of Article 6 of the Convention and Article 1 of Protocol 1.
- 19.2 The Council has carefully considered the rights of the Owner most likely to be relevant to the matters relating to the compulsory purchase of the Order Land. These are
- Protocol 1, Article 1 – Protection of property
 - Article 6 – The right to a fair trial
 - Certain interferences with these rights may be justified, provided that the interference:
 - Is lawful
 - Pursues a legitimate aim
 - Does not involve discrimination infringing Article 14 (right to non-discrimination)

(a) Protocol 1, Article 1: Protection of property

- 19.3 Public authorities cannot usually interfere with a person’s property or possessions or the way that they use them, including taking away what somebody owns, except in specified limited circumstances.
- 19.4 The Article requires public authorities to strike a fair balance between the general interest and the rights of individual property owners., and the protection extends A public authority **will not** breach this right if a law says that it can interfere with, deprive, or restrict the use of a person’s possessions, and it is necessary for it to do so in the public interest. An interference with a person’s peaceful enjoyment of property may be necessary in the public interest – for example, a compulsory purchase of a person’s property.
- 19.5 Where this is unavoidable, then the interference must be lawful and necessary in the public interest. If a public authority does decide that it is necessary to interfere with someone’s possessions, there must be an objective and reasonable justification for that, and the public authority may be asked to produce reasons for its decisions.
- 19.6 In pursuing this Order, the Council has carefully considered the balance to be struck between the effect of acquisition on individual rights and the wider public interest. Interference with Convention rights is considered by the Council to be justified here in order to secure the protection of the listed buildings and structures, economic regeneration, community development, protection of the natural environmental and wider public benefits which the

proposed preservation of the Pier will bring. Furthermore, the Council is satisfied that the proposals will have a positive impact on the social, environmental and economic well-being of the town of Weston and contribute to the overall quality of life for all those who live work and visit the town. to businesses as well as to individuals.

19.7 The Council believes that there is proportionality between the private rights of the Owner/any other person with an interest in the site interfered with and the justification for the interference. Consideration has been given to striking a fair balance between the wider public interest and the Owner/any other person with an interest in the site personal rights in respect to protection of their property/rights. In justifying such an interference, the Council is satisfied that the course of action described in this Statement of Reasons is in respect to the Owner/any other person with an interest in the site –

19.7.1 Not arbitrary or unfair

19.7.2 Based only on relevant considerations

19.7.3 Capable of achieving the objectives set out

19.8 The Council has consistently -

19.8.1 Acted in accordance with their policies

19.8.2 Taken the appropriate steps to achieve the objectives in this document.

19.8.3 Balanced the public interest with the rights (personal and protection of property) of the Owner and other people with a legal interest in the Order Land.

(b) Article 6(1) – the right to a fair trial

19.9 In the determination of 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.

19.10 Once an acquiring authority (in this case the Council) has made a CPO, it must be submitted to the confirming authority for authorisation. Where there are statutory objections to the CPO, an independent Inspector is appointed to consider those objections. The Previous Owner also applied for a stay to the Magistrates Court after the Order was made, and the application was pursued by the Current Owner then withdrawn by consent in November 2022. At the Inquiry, the Inspector may consider the case through written representations or alternatively hold a fair and public hearing known as a public inquiry. The Inspector then submits a report and recommendation to the relevant Secretary of State who decides whether or not to confirm the CPO.

19.11 It is the view of the Council that the Previous and Current Owner has been given full notice of the Order proceedings relating to Birnbeck Pier. The

Council submits that these actions demonstrate full compliance with Article 6(1).

The Equalities Act 2010

19.12 In addition to the Human Rights Act, the Council and Secretary of State are required to comply with the Equalities Act 2010. The Council has considered the impacts preserving the Pier upon key equalities protected characteristics. Overall, it is considered that the determination of the application and consequently the pursuit of CPO powers by the Council would not have any significant adverse impact on different groups or implications for the Equalities Act 2010.

20. Rights in the Order Land which will be extinguished Section 51 of the Planning (Listed Building & Conservation Area Act) 1990

- 20.1 A number of historic rights have been registered over the Order Land , many of which are vested in the Crown Estate. RNLi has spoken with the Crown Estate and it is anticipated that the consent of the Crown Estate to the acquisition of interests in the land will be forthcoming. The consent of the Crown Estate to the acquisition of land in which there is a crown interest has been obtained.
- 20.2 All other lesser interests, including charges over land will be overridden or extinguished by the Council if the Order is made and relied on by the Council. Such interests will be entitled to claim compensation in accordance with the Compensation Code.

21. Special Considerations

21.1 The Crown Estate

21.1.1 The Crown Estate holds historic rent charges over the title of the Order Land and has reserved mines and minerals in part of the Order Land. The Order has been drafted so as to exclude such interests from compulsory acquisition.

21.1.2 Discussions have taken place between the RNLI and the Crown Estate regarding the Crown Estate's consent to the inclusion of Crown interests in the Order. The Crown Estate is aware of the proposed Order and has consented to the Order being confirmed so as to allow the Council to allow interests in Crown land other than those held by the Crown.

21.2 The Board of Trade (and successors to)

21.2.1 Historic rent charges over the title of the Order Land are also registered in favour of the Board of Trade. It is not clear whether the current beneficiary is one or more of the MMO, the Secretary of State for Environment and Rural Affairs (DEFRA) or the current Board of Trade.

21.2.2 The Order has been drafted so as to exclude such interests from compulsory acquisition.

22. Conclusions

- 22.1 For the reasons set out in this Statement of Case, the Council considers that the criteria in the Guidance is satisfied and that there is a compelling case in the public interest for confirmation of the Order. The proper preservation of the Pier is possible with the intervention of the Council and the support of the RNLI.
- 22.2 The historic value of the Pier makes it expedient to confirm the Order and that the Relevant Land is required for the proper preservation of the Pier as funding for the required works will not be available without the Relevant Land being secured.
- 22.3 Taking into account the lack of any reasonable steps by the Current Owner and predecessors for properly preserving the Pier, and the lack of any viable proposal for ensuring its preservation by the Previous Owner or the Current Owner as at (a) the date of the Repairs Notice, (b) the date of the making of the Order or (c) at the failed attempt to seek a stay at the Magistrates Court in November 2022, it is expedient to authorise the compulsory acquisition and confirm the Order. Only the Council, with the collaboration of the RNLI, have a viable, funded strategy for the preservation and future management of the Pier and the Order Land, in its entirety, as well as access to funding sources that would not be available without the ownership of the Pier being secured by the Council. The condition of the Pier and the magnitude of the funds required for its proper preservation, and the public interest in the Pier being preserved, means confirming the Order is the Pier's last chance. It is therefore expedient for the Secretary of State to confirm the Order.
- 22.4 There is a compelling case in the public interest for the Pier to be preserved because of its historic value as a Pier and in its role in the history of Weston super Mare. That compelling case is strengthened by the proper preservation works facilitating the return of the RNLI to Birnbeck Island to best fulfil its vital lifesaving role within the Severn Estuary.
- 22.5 The compelling case in the public interest for the confirmation of the Order is also demonstrated by the return of public access to the Pier and to Birnbeck Island and the making safe of the Pier. It will bring benefits to this part of Weston-super-Mare by improving the amenity and appearance of the Pier and the Relevant Land and is fully compliant with national, and local planning policy.

23. List of Documents

- 23.1 The Council intends to refer to or put into evidence at the Inquiry the documents, plans and maps listed in Appendix 1 to this Statement.
- 23.2 The Council reserves the right to add or remove documents from this list, as necessary, including in response to evidence put forward by objectors.
- 23.3 Copies of the documents listed in Appendix 1 to this Statement are available are available on the Council 's website www.n-somerset.gov.uk/birnbeckcpo:
- 23.4 Hard copies of the documents listed in Appendix 1 to this Statement can be inspected at Weston Library, Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ.
- 23.5 The Library opening hours are:
- Monday to Friday: 9:30am-6pm
 - Saturday: 9:30am-4pm
 - closed on Sundays and bank holidays

Appendix 1 - Inquiry Document List

The Council intends to refer to or put in evidence the following documents in addition to this Statement of Case and proofs of evidence.

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

Where links are provided below, hard copies of the documents can be made available for inspection on request.

| | |
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| A | Order and other documents relating to Order |
| 1 | The Order |
| 2 | The Order Map |
| 3 | The Repairs Notice |
| 4 | The proposed modifications to the Order submitted 11 January 2023 |
| 5 | Council's Statement of Reasons |
| 6 | The statutory list entry for the Pier |
| 7 | Plan accompanying statutory listing |
| 8 | Buildings at risk register (link and hard copy) Birnbeck Pier, Weston-Super-Mare - North Somerset (UA) Historic England |
| B | Government Guidance |
| 1 | DCMS Circular – The Upkeep and repair of Historic Buildings, March 2022 |
| 2 | Compulsory purchase process and the Crichel Down Rules 2015 (updated 2019). (link only https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1071500/CPO_guidance_-_with_2019_update.pdf) |
| 3 | Stopping the Rot – A guide to enforcement action to save historic buildings, Historic England January 2023 (link only: https://historicengland.org.uk/images-books/publications/stoppingtherot/heag046b-stopping-the-rot/) |
| 4 | National Planning Policy Framework 2021 (link only: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf) |
| C | North Somerset Council Relevant Development Plan Corporate, Strategy & other documents |
| 1 | North Somerset Council Core Strategy (2017) (Link only https://n-somerset.gov.uk/my-services/planning-building-control/planning-policy/our-local-plan/about-our-local-plan) |
| 2 | The Weston Placemaking Strategy 2020 (Link only https://superweston.net/) |
| 3 | Weston-super-Mare Town Centre Regeneration – Supplementary Planning Document (SPD) (Link only https://n-somerset.gov.uk/sites/default/files/2020-03/Weston-super-Mare%20town%20centre%20regeneration%20supplementary%20planning%20document.pdf) |
| 4 | Great Weston Conservation Area Appraisal and Management Plan (link only https://n-somerset.inconsult.uk/gf2.ti/-/958594/40918533.1/PDF/-/Great_Weston_CAA_introduction_Draft.pdf) |

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| 5 | Seafront Character Area 2017 (Link only https://www.n-somerset.gov.uk/sites/default/files/2020-02/Great%20Weston%20Conservation%20Area%20seafront%20appraisal.pdf) |
| 6 | North Somerset Council Corporate Plan 2020/2024 (Link only https://www.n-somerset.gov.uk/sites/default/files/2020-03/Corporate%20Plan%202020-2024_0.pdf) |
| D | North Somerset Council – Full Council and Executive Reports & Decisions |
| 1 | Report to members to Make Order 14 July 2020 |
| 2 | Resolution of Full Council 14 July 2020 |
| 3 | Resolution of Full Council 9 November 2021 |
| E | Order Land and related documents |
| 1 | Official Copy of title to the order land -Title register ST212047 |
| 2 | HM Land Registry File Plan - ST212047 |
| 3 | Weston super Mare Pier Act 1862 |
| 4 | Weston super Mare Pier (Extension) Act 1864 |
| 5 | Indenture 28 October 1864 |
| 6 | Typed transcript of Indenture 28 October 1864 |
| F | Magistrates Court proceedings |
| 1 | Consent Order 22 November 2022 |
| 2 | Bundle of papers provided to Court |
| G | correspondence – letters/emails |
| 1 | CNM's Letter of objection |
| 2 | Town Legal on behalf of the Crown Estate consenting to land in which The Crown Estate hold an interest being included the Order, 5 November 2021 |
| 3 | Letter from THE RT HON ANNE-MARIE TREVELYAN MP, the Secretary of State for International Trade & President of the Board of Trade consenting to land in which Board of Trade hold an interest being included the Order, 9 May 2022 . |
| H | Planning/Listed Buildings Consent /other relevant applications and other relevant documents |
| 1 | Listed Building Consent dated 14 May 2014 - application 14/P/0765/LB for emergency temporary repairs to beam-end bearings supporting pier at mainland end of pier involving temporary props and urgent deck protection works (hyperlink to application documents embedded – hard copy of consent only) |
| 2 | Listed Building Consent dated 13 October 2016 - application 16/P/1593/LB for partial demolition of the North Jetty to remove walkway and 5 no. trestle piers, (hyperlink to application documents embedded – hard copy of consent only) |
| 3 | Listed Building Consent dated 16 October 2020 - application 20/P/1933/LBC - physical structural surveys to the trestle legs, pier abutments and foundation excavations of the trestles columns of the listed pier. (hyperlink to application documents embedded – hard copy of consent only) |
| 4 | Listed Building Consent dated 18 February 2021 - application 20/P/1784/LBC - for immediate works relating to Repairs Notice consisting of sections: 4, 7, 8, 11 and 13. (hyperlink to application documents embedded – hard copy of consent only) |

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| 5 | Listed Building Consent dated 8 April 2021 - application 20/P/2546/LBC - partial demolition of the North Jetty to remove walkway and 5no. trestle piers (hyperlink to application documents embedded – hard copy of consent only) |
| I | North Somerset Council - secured external funding |
| 1 | NSC Press Release – 20 October 2022 – National Heritage Memorial Fund (Cultural Assets Fund) |
| 2 | NSC Press Release – 2 November 2022 – National Lottery Heritage Fund |
| 3 | NSC Press Release – 19 January 2023 – Levelling Up Fund |
| J | Other relevant documents/maps/plans/photographs |
| 1 | Birnbeck Pier Photos – 26 May 2020 |
| 2 | Birnbeck Pier – views along pier 2001-2023 |
| 3 | Birnbeck Pier – drone photos May 2023 |
| 4 | Photographs and press coverage - Weston Mercury 1 May 2023 |

Appendix 2 – Timeline of events

Part 1 (1862 – 2020)

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| | [we should start with the Act of Parliament] |
| 1862 | Construction begins. The pier was designed for Richard and John Laybourne by Eugenius Birch. Of cantilever construction it was erected by Messrs Toogood from parts prefabricated at their Isca Iron Foundry, Newport, South Wales. The total cost at the time was £67,775 |
| 28 October 1864 | Foundation stone laid by Master Cecil Hugh Smyth-Piggot, the 4 year old son of the Lord of the Manor |
| 5 June 1867 | Birnbeck Pier is opened by Master Cecil Hugh Smyth-Piggot. The admission price is 1d. In the first 3 months of operation, 120,000 people pass the turnstiles. At the end of the summer the admission price is doubled to 2d. |
| 15 June 1867 | The first paddle steamer to use the pier, the “Heather Belle” arrives from Cardiff |
| 1872 | Addition of a 250 ft. wooden north jetty and a small plunge bath on the island |
| 1882 | First RNLi Lifeboat Station established – the boat was called the “William James Holt”, and was slung from davits |
| August 1884 | Building of a pavilion with a large hall and reading rooms. The island was asphalted. A tramway opened to transport luggage from steamers |
| 1887 | P & A Campbell’s paddle steamers first appeared in the Bristol Chanel The switchback ride is now in use |
| 1889 | Construction of a boathouse on the north side – there was a second lifeboat also named the “William James Holt” |
| 1890 | Fairground added – the amusements included a Theatre of Wonders, Mechanical Models, Alpine Railway, Shooting Gallery, Park Swings and a Merry Go Round |
| 1892 | New west low water jetty being built to cope with the large number of steamers. |
| 1893 | More facilities added including Tea Rooms, Coffee Rooms, a Bar, a Band, Photo Studio, Bazaars selling souvenirs and a telephone for business men |
| 26 December 1897 | Fire damaged the main buildings (including the funfair) on Boxing Day. These were replaced by the structures currently standing (although these have also been altered during the C20th) |
| 1898 | Opening of a new pavilion and (July 1898) low water jetty (this jetty was closed from 1903 – 1910 and remained until 1932). The clock tower now has 4 faces instead of 1 |
| 1901/2 | New lifeboat station built and opened on south of Birnbeck island, to accommodate a larger lifeboat the “Colonel Stock” (which arrived in 1903). Before alterations this had the longest lifeboat slipway in England at 112 m (just under 368 ft.) |
| May 1902 | Weston’s tram service started linking the pier with the GWR station |
| 10 September 1903 | The Great Gale caused considerable damage |

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| 1903 – 1904 | Pier closed for eight months to enable repairs to both jetties damaged in the 10/09/1903 storm |
| 1905 | Wooden north jetty replaced by steel one extending to 300 ft. (91.4 m) The rebuilding of the west jetty started. Opening of Weston's second pier – The Grand Pier in June |
| 1905 | Existing North Jetty built. The Water Chute is in use (and remained until 1923) |
| 1908 | The various amusements now included the Flying Machine (also known as Airships), Helter Skelter, Maze, Bioscope, Waterchute, Switchback, Cake Walk and Zig Zag slide |
| June 1908 | A new 36ft siding brought the promenade tramway to the entrance of the pier's private road |
| 1909 | Concrete platform built increasing size of island |
| 1910 | Reopening of the west low water jetty (this was still in use in 1916, but not mentioned after 1919) |
| 1933 | The opening of a large funfair on the Grand Pier caused the abandonment and closure of Birnbeck Pier's amusements |
| 17 April 1937 | Closure of Weston's tramways |
| 1940 | As the pier is of continuous girder construction, luckily it did not suffer the wartime fate of other piers around the coast of having a section cut out of it |
| 1941 - 1946 | <u>War Service: HMS Birnbeck</u> With the outbreak of WWII, the Pier had a lucky escape as it was due to be partially demolished as an anti-invasion precaution. It was requisitioned by the Admiralty and when the demolition team arrived, they were informed by the Pier Master that as it was a chained – linked construction pier, anchored at one end to Birnbeck Island, it would collapse altogether if any sections were removed. The Admiralty then took on the Pier as it was, and it became known as HMS Birnbeck. A great deal of secret and experimental activities and weapons testing went on there through the work of the Directorate of Miscellaneous Weapons Development (DMWD – known colloquially as the 'Wheezers and Dodgers'). This included the Barnes Wallis 'Bouncing Bomb'. |
| 1962 | P & A Campbell bought the pier from the Birnbeck Pier Company |
| 1971 | The final season of regular passenger steamer services. At the height of the traffic there were 1,000 steamer trips per year carrying 200,000 people. The day trip was especially popular amongst Welsh miners, with most people spending the entire day on the pier. The total number of visitors in a good year averaged 750,000. |
| 1972 | The pier was purchased by Mr John Critchley |
| 1974 | Several structures Grade II listed on the island |
| 1979 | The last ship – 'M. V. Balmoral' sails from the Pier |
| 19 May 1983 | Birnbeck Pier listed |
| 1984 | Pier damaged by drifting equipment from engineering work in Sand Bay. Immediate repairs were carried out. |
| 1990 | Pier badly damaged by storms |
| 1994 | Pier closed to the public for safety reasons |
| 1996 | Friends of the Old Pier Society formed (registered charity) |

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|-------------|--|
| 1999 | RNLI installed a walkway across the Pier to allow them safe access. |
| 1999 | Pier included in first National Buildings At Risk register |
| 2004 | Birnbeck Regeneration Trust formed (registered charity) |
| 2006 | September – Pier and Island purchased by Urban Splash |
| 2007 | August – RIBA design competition to bring life back to the Pier and Island attracts 95 entries from around the world including – Hong Kong, Canada, Russia and the USA. |
| 2009 | Adjacent Royal Pier Hotel sold to Birnbeck Investments Ltd. English Heritage awards £80k to Urban Splash for trial repair works to the pier. |
| 2010 | <ul style="list-style-type: none"> • Fire destroys Royal Pier Hotel site adjacent to Order Land. • North Somerset Council carry out urgent demolition and health and safety works to the former hotel site. • Mann Williams (Consulting & Civil Engineers) carry out the trial repair works to the pier and publish report and recommendations |
| 2011 | Urban Splash commences process of setting sells pier to CNM Estates (Birnbeck) Ltd, |
| 2013 | After 131 years, RNLI leave their lifeboat station on Birnbeck Island as deemed unsafe for their staff and volunteers |
| 2014 | Urban Splash completed purchase to CNM Estates (Birnbeck) Ltd |
| 2015 | December: Partial collapse of North Jetty following Storm Frank |
| 2016 | <p>15 January 2016: North Somerset Council served a Section 77 Dangerous Building notice on the site under the 1984 Building Act after the partial collapse of the North Jetty during Storm Frank at the end of 2015.</p> <p>September 2016: Listed building consent application made for partial demolition of the North Jetty to remove walkway and 5 Trestle piers submitted. Historic England response to consultation issued with conditions was –</p> <p><i>No objection. The assessment takes in to account the history of the North Jetty and its significance to the main Grade II* Birnbeck pier. The Jetty itself is Grade II listed believed to have been built in the late 1860's but was extensively repaired between 1903 and 1905. The trestle legs present today date from the turn of the last century. The North Jetty's significance to the main pier is defined as having a historic and social significance, as this was integral to the success of the pier and represents how many visitors came to Weston. It also has an aesthetic value in connection with view of the main pier. Localised collapse occurred during the stormy weather in the Christmas and New Year of 2015/16, this has been a result of corrosion of the mild steel which is vulnerable in saline environments and excessive load. Historic England fully acknowledge the need to remove the danger from the public, although the removal of the deck will have an adverse impact on both the significant of the jetty itself and the setting of the Grade II* main pier. The clear convincing evidence given in the application shows a clear structural engineering justification for the localised demolition which Historic England support.</i></p> <p>Listed building consent approved with conditions.</p> |

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| <p>2017</p> | <p>January: Contractors working for Previous Owner arrive on site to commence demolition of the North Jetty. North Somerset Council orders work to stop one day later due to unauthorised works being carried out i.e., the creation of an unauthorised haul road from the top of the cliff down to Birnbeck Island, dumping tons of shingle on the cliff face despite this being a Site of Special Scientific Interest (SSSI). North Somerset Council advised the pier owners they would have to –</p> <ul style="list-style-type: none"> • Remove the shingle and materials and return the cliff site to its previous condition (to date this has not happened) • Seek advice from Natural England as any impact on the Severn Estuary, which is an SSSI, is subject to a Marine Management Licence and SSSI consent. These consents are dealt with by the Marine Management Organisation and Natural England and will be required for the demolition works for the jetty (no evidence that the pier owners have sought this specialist advice) • Submit a separate request for planning permission if demolition works to the North Jetty required land based access (to date no such application has been received) <p>To date (May 2023), there has been no further action from the owner to resolve these specific issues, and the spoil remains at the site.</p> |
| <p>2018</p> | <p>High winds and corrosion caused collapse to some of the Pier's railings, the section of broken and unsafe railings have now been removed and stored</p> |
| <p>2019</p> | <p>6 August 2019: NSC sent 1st warning letter to owner at x 2 registered addresses re condition of Pier and requesting proposals for going forward</p> |
| <p>2019</p> | <p>21 August 2019: NSC send 2nd warning letter to owner at x 2 registered addresses re condition of Pier and requesting proposals going forward</p> |
| <p>2019</p> | <p>9 September 2019: NSC issues Repairs Notice to current owner, RNLI (as they have an interest in the property relating to rights of way) and additional persons recorded as a charge on Land Registry title deeds. Two month response time allowed by law</p> |
| <p>2019</p> | <p>11 November 2019: NSC sent follow up to Repairs Notice additional letter requesting owner respond to Repairs Notice</p> |
| <p>2019</p> | <p>11 November 2019: response received from CNM Estates (Birnbeck) Ltd solicitors stating their client objects to the issuing of the Repairs Notice as -</p> <ul style="list-style-type: none"> (a) they do not consider the Notice qualifies as a lawful basis on which to begin CPO process and requested withdrawal of Notice (b) are advised there is no need for the Notice and there is an alternative solution by which to execute at public expense the repairs listed in the Notice (c) are advised the current owner is making headway in seeking a solution to this complex issue |
| <p>2019</p> | <p>13 December 2019: NSC responds to letter from current owner's solicitors of 11/11/2019 stating the Council's position that it is not accepted that the Notice is flawed in any way and the Council has no intention of withdrawing it.</p> |

Part 2 - Chronology Of Events Since The Order Was Made

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| 14 July 2020 | At the Full Council meeting, North Somerset Council unanimously agrees to take forward the issuing of a CPO in respect of Birnbeck Pier |
| 2020 | 18 September 2020: NSC made and served Order on the Previous Owner |
| 2020 | 27 October 2020: Previous Owner applied to the Magistrates Court for a stay against confirmation of the CPO |
| 2021 | 22 January 2021: Pier ownership transferred to Birnbeck Holdings Ltd, from CNM Estates (Birnbeck) Ltd following instruction from the High Court that the land should be sold to reimburse mortgagee |
| 2021 - 2022 | During this period, NSC & RNLI were in communication with the Current Owner to try and acquire by negotiation. May 2021 – NSC agreed to pause magistrates court proceedings to allow for Heads of Terms to be agreed for a negotiated transfer. |
| 2022 | 26 January 2022 – Directions Hearing at North Somerset Magistrates' Court, Weston-super-Mare. |
| 2022 | 17 May 2022 – Hearing at North Somerset Magistrate's Court, Weston-super-Mare |
| 2022 | 28 July 2022 – Hearing at Taunton Deane & West Somerset Magistrates Court, Taunton |
| 2022 | 25 November 2022: Hearing at Taunton Deane & West Somerset Magistrates Court, Taunton. The Current Owner withdrew the application for a stay against the issuing of the Order |
| 2022 | 30 November: The Council's solicitors wrote to DCMS requesting that the Order be actioned |