

Committee Name and Date of Committee Meeting

Cabinet – 14 October 2024

Report Title

Dinnington Compulsory Purchase Order

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Andrew Bramidge, Strategic Director of Regeneration and Environment

Report Authors

Alex Richardson, Project Manager

Megan Hinchliff, Regeneration Programme and Strategy Manager.

Ward(s) Affected

Dinnington

Report Summary

This report seeks Cabinet authority to make and then seek confirmation of a Compulsory Purchase Order (“CPO”) for the acquisition of land and property interests identified on the plan and in the schedule in appendices 1 and 2 of this report (the Order Land).

This is intended to assist in facilitating the redevelopment of the Laughton Road shopping area as per previous Cabinet decisions in August 2023 and July 2024.

Recommendations

That Cabinet:

1. Authorise the Council in the making of a CPO for the land shown coloured pink and edged red (“the Order Land”) on the plan contained at Appendix 1 under section 226(1)(a) of the Town and Country Planning Act 1990 because it thinks that:
 - a. The acquisition will facilitate the carrying out of the development, redevelopment, or improvement (including regeneration) on or in relation to the Order Land; and

- b. The development, redevelopment or improvement is likely to contribute to the achievement of the economic, social or environmental well-being of the Council's area.
2. Authorise the Council in acquiring new rights under section 13 Local Government (Miscellaneous Provisions) Act 1976 in respect of the land shown shaded in blue on the plan contained at Appendix 1 to facilitate the development, redevelopment, or improvement on or in relation to the Site.
3. Authorise in principle and subject to the confirmation of the CPO the appropriation of the land within the scheme to a planning purpose (to the extent that it is not so held already) to allow the redevelopment of the Order Land, pursuant to section 122 Local Government Act 1972;
4. Authorise the Council's Property Officer (Delegated to Assistant Director, Properties & Facilities), in consultation with the Cabinet Member for Jobs and the Local Economy and the Assistant Director of Legal Services, to:
 - a. Approve terms for the acquisition of legal interests (including new rights) to the extent not already acquired by agreement including for the purposes of resolving any objections to the CPO;
 - b. Take all necessary steps to secure the making, confirmation and implementation of the CPO, including, making further amendments by way of finalising the draft Statement of Reason (exempt Appendix 4) the publication and service of all relevant notices and the presentation of the Council's case at any future local public inquiry;
 - c. Consider the outcome of the Equalities Impact Assessment and ensure appropriate steps are taken to meet the Council's Public sector Equalities Duty.
 - d. Take all necessary steps to resolve any compulsory purchase compensation claims, including, if necessary, by way of making (or responding to) a reference to the Upper Tribunal (Lands Chamber);
 - e. Subject to 3 above authorise, the Council's Property Officer and Facilities (following the confirmation of the CPO) to appropriate the land referred to a planning purpose.

List of Appendices Included

- Appendix 1 Site location and red line Order boundary
- Appendix 2 Schedule of Interests – Order Land (exempt)
- Appendix 3 Land Referencing Schedule (August 2024) (exempt)
- Appendix 4 Draft Statement of Reasons (exempt)
- Appendix 5 3D image of the proposed scheme
- Appendix 6 Land acquisition status report and plan (exempt)
- Appendix 7 Initial Equalities Screening assessment
- Appendix 8 Carbon Impact assessment

Background Papers

MHCLG Compulsory Purchase and Compensation: Guide 1 – Procedure (December 2021)

MHCLG Compulsory purchase and compensation: Guide 2 – Compensation to Business Owners and Occupiers (December 2021)

Rotherham Metropolitan Borough Council Cabinet: Dinnington: Capital Regeneration Grant 7th August 2023 (Minute 39 refers)

Rotherham Metropolitan Borough Council Cabinet: Dinnington Progress Report 29th July 2024 (Draft Minute 33 refers)

Rotherham Metropolitan Borough Council Overview and Scrutiny Committee 24th July 2024 Dinnington Project (Levelling Up Fund) Update Report (Draft Minute 16 refers)

Consideration by any other Council Committee, Scrutiny or Advisory Panel

[Dinnington: Capital Regeneration Grant August 2023](#)

[Cabinet 29th July 2024: Dinnington Progress Report](#)

[Printed minutes Wednesday 24-Jul-2024 10.00 Overview and Scrutiny Management Board.pdf \(rotherham.gov.uk\)](#)

Council Approval Required

No

Exempt from the Press and Public

Yes or No? If yes, use text below.

An exemption is sought for Appendix 2, 3, 4 and Appendix 6 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) of Part I of Schedule 12A of the Local Government Act 1972, as this report contains details of all confidential negotiations to date and financial information relating to the purchase.

It is considered that the public interest in maintaining the exemption would outweigh the public interest in disclosing the information because all such negotiations and financial information should remain confidential between the parties.

Dinnington Compulsory Purchase Order

1. Background

- 1.1 In the spring of 2023, the Council secured funding for regeneration projects in two of the Borough's Principal Areas of Growth, Wath-Upon-Dearne and Dinnington.
- 1.2 The projects aimed to transform two prominent sites within those localities, with a focus on high quality place making to restore the cultural heart of the town centres, increase footfall, boost the local economies, and restore a sense of pride amongst communities.
- 1.3 On 30th June 2023, a Memorandum of Understanding (MoU) was signed between the Council and Department of Levelling Up, Housing & Communities (DLUHC) setting out the terms, principles, and practices that apply regarding administration and delivery of this funding.
- 1.4 The scope of the Dinnington scheme ("the Scheme") was approved by Cabinet in August 2023. Cabinet resolved to:
 1. Approve a budget of £11,049,547 to deliver the Dinnington High Street/Market project funded from the Government's Levelling Up Programme.
 2. Delegate the commissioning of the design of the scheme to the Strategic Director for Regeneration and the Environment in consultation with the Cabinet Member for Jobs and the Local Economy and the Council's S151 Officer.
 3. Authorise the Assistant Director for Planning, Regeneration and Transport to negotiate and agree the acquisition of property interests to deliver the scheme, in consultation with the Cabinet Member for Jobs and the Local Economy and the Council's S151 Officer.
 4. Resolve 'in principle' to investigate the use of Compulsory Purchase Order powers if terms cannot be agreed, subject to a further report being submitted to Cabinet seeking a formal resolution to acquire property interests required to deliver the scheme by exercising the Council's CPO powers.
- 1.5 On the 29th July 2024 Cabinet approved the delivery of the Dinnington Principal Areas of Growth project within the parameters of an updated scope and budget, which included an additional £1 million of capital investment from the Council's Towns and Villages Fund.
- 1.6 Since the Cabinet meeting in August 2023, considerable progress has been made in assembling the land and property required to deliver the scheme, the Council has yet to reach agreement on the acquisition of 9 remaining plots of land needed for the Scheme. Details of these acquisitions and negotiations relating to the remaining plots are set out in Appendix 2

(exempt) and Appendix 6 (exempt) In light of the timescales involved in the CPO process, and in accordance with Government guidance, it is now prudent to commence the CPO process in parallel with those negotiations.

- 1.7 This report seeks Cabinet authority to make a CPO pursuant to section 226 (1) (a) of the Town and Country Planning Act 1990 and section 13 Local Government (Miscellaneous Provisions) Act 1976 to acquire these interests and new rights which are identified in the Appendices 1 and 2 of this report for the reasons set out in Appendix 4 (exempt).

2. Key Issues

The Scheme - objectives and benefits

- 2.1 The scheme seeks to regenerate an area in the centre of Dinnington, one of the Borough's identified 'Principal Settlements for Growth' which is characterised by vacant/derelict buildings and underused areas of land. The proposed scheme has the objective of revitalising the area and boosting trade through the refurbishment of an existing parade of shops, and the construction of 7 new commercial/retail units and a new Town Square that will accommodate an open market.

- 2.2 In summary, the scheme comprises:

(a) Demolition of:

- 36-44 Laughton Road, Dinnington
- The former indoor market building 34, Laughton Road, Dinnington
- The structures associated with the operation of the open market, off Constable Lane, Dinnington
- Number 32 Laughton Road, Dinnington

- (b) Construction of a block of 6 retail/commercial units and a secure storage unit for the market stalls at the southern end of the site and a separate commercial/community building with associated parking and servicing areas.

- (c) Refurbishment of 6 existing retail units 46-56 Laughton Road.

- (d) Construction of a new Town Square that will accommodate the open market.

- (e) Associated public realm improvements to improve pedestrian links between the High Street (Laughton Road) and the bus interchange and public car parks on Constable Lane.

Land proposed for compulsory acquisition.

- 2.3 The land proposed for compulsory acquisition is identified as that shown coloured pink and edged red on the plan at Appendix 1.

- 2.4 In respect of the land shown coloured blue (on the plan at Appendix 1), only

rights over this land are to be acquired compulsorily, the land itself is not to be acquired.

The purpose and justification for the use of CPO power

- 2.5 The draft Statement of Reasons attached to this report at Appendix 4 (exempt) sets out the full reasons supporting the Council's use of its CPO powers. In particular paragraph 6 specifically sets out the reasons and paragraph 10, the specific justification for the use of the powers.
- 2.6 A full land registry search has been completed and a Land Referencing Schedule compiled at Appendix 3 (exempt). Negotiations with landowners and other interested parties are on-going and the position with respect to those negotiations is set out in Appendix 2 (exempt).
- 2.7 Although it is not presently anticipated that the Council will need to use its powers to appropriate land to a planning purpose, there is a possibility that it might need to do so in respect of a small area of the Scheme for the purposes of facilitating the proposed development.

3. Options considered and recommended proposal

Option 1: Do Nothing

- 3.1 The scheme design and feasibility work has been in development since Summer 2023; and the land assembly has been running in tandem which has transferred 15 Titles into Council ownership. Without the CPO, completion of the outstanding land assembly would be at risk and could render the proposed scheme undeliverable. It is key to note that effective management and maintenance of the assets secured to date would still be required therefore there is no "do nothing" option at this stage.
- 3.2 Although negotiations are continuing with the respective landowners/leaseholders to secure the land by agreement, some of these discussions have now stalled, with no realistic prospect of achieving a satisfactory outcome.
- 3.3 This option is not recommended as it would leave the site in fragmented ownership with no prospect of the landowners collaborating to develop the comprehensive scheme that is required to stimulate the growth of the town centre. Without a CPO the site would continue to deteriorate and have a detrimental impact on the economic wellbeing of adjacent businesses.

Option 2: Deliver a smaller scheme based on the Council's current ownership.

- 3.4 The Council currently owns the freehold of plots 1,6-18 and 20 shown on the Plan attached in Appendix 1 but does not control long-leasehold interests in Plots 9,12 and 15. This land holding is insufficient to deliver the comprehensive scheme that is required to regenerate the town centre.

- 3.5 Whilst improvements could potentially be made to land and property in the Council's ownership, these would be piecemeal leaving large parts of the site in a derelict or underused condition. This approach would fail to realise the potential of the open market to attract footfall into the area due to its back land position.
- 3.6 As this is not the option that attracted the funding through the competitive bidding process this option would be subject to a formal variation with the funder.
- 3.7 This option is therefore not recommended.

Option 3: Focus entirely on acquiring the Order Land by negotiation and redevelop it for the proposed Scheme.

- 3.8 Since Cabinet approved the proposed scheme in August 2023, the Council has been seeking to acquire the various interests required to deliver it by negotiation. Gateley Hamer have been appointed to act on the Council's behalf in these negotiations and the offers that they have made to the respective landowners/leaseholders have been based on an open market value and factored in respective Disturbance/Basic Loss/Occupiers Loss Payments and a contribution towards professional fees.
- 3.9 Despite protracted negotiations, it has not been possible to reach agreement to acquire the outstanding interests identified in the Schedule outlined in Appendix 2 (exempt). Although negotiations are continuing, this option is time limited and cannot be relied upon to deliver the approved scheme.
- 3.10 This option is deemed to be too high risk therefore is not recommended.

Option 4 (preferred): Acquire the outstanding interests by CPO and develop the approved scheme.

- 3.11 This option provides the greatest degree of certainty that the scheme, as illustrated in Appendix 5 can be delivered by the Council in accordance with the objectives that have been set out during consultation with MHCLG, Elected Members and local businesses.
- 3.12 The scheme has been developed in detail, consultation has taken place, the planning application is due for determination imminently and assembly of the redevelopment site is being assembled largely through negotiation. The proposals accord with the Planning Policy Framework for the area and there are no legal restrictions in place that will prevent the construction of the scheme.
- 3.13 Grant funding has been secured from MHCLG to facilitate the scheme's development, and the Council has allocated an additional £1 million funding from its own capital programme to support delivery. This will fund legal, and surveyors' fees associated with the progression of the CPO and the ultimate

cost of acquiring the outstanding interests and constructing the proposed development.

- 3.14 It is therefore recommended that the Council move forward with the current scheme by moving to acquire the outstanding interests by CPO as necessary on grounds of local regeneration.

4. Timetable and Accountability for Implementing this Decision

- 4.1 The planning application for the proposed scheme was submitted on the 20th of July 2024. Subject to planning approval, the detailed design will be finalised with a view to the development commencing in early 2025.
- 4.2 The Council will continue to endeavour to reach agreement with landowners on the acquisition of the outstanding interests required for the Scheme.
- 4.3 At present the Government-imposed deadline for drawing down the grant is 31st March 2026 however the Council capital contribution extends beyond that.

5. Financial and Procurement Advice and Implications

- 5.1 The costs associated with any CPO including fees and the cost of acquisitions will be funded from the approved budget for the scheme.
- 5.2 There are no direct procurement implications associated with the recommendations detailed in this report in respect of progressing the CPO. As the scheme develops in construction appropriate consideration must be given to the procurement approach to ensure compliance with the Public Contracts Regulations 2015 or the Procurement Act 2023 (whichever is the applicable legislation at the time) and the Council's own Financial and Procurement Procedure Rules.

6. Legal Advice and Implications

- 6.1 The Council has a range of powers to promote CPOs. In this instance, there are powers contained in section 226 Town and Country Planning Act 1990, the power to acquire land if a local authority thinks that the development, redevelopment, or improvement (including regeneration) of land will promote the economic, social or environmental well-being of the Council's area.
- 6.2 The Council has powers to acquire rights over land only in accordance with section 13 Local Government (Miscellaneous Provisions) Act 1976. In this instance those powers would be utilised to facilitate access over adjoining land in order to facilitate the delivery of the scheme.
- 6.3 In promoting a CPO Government guidance provides that:
- Acquiring authorities (the Council here) should look to use the most specific power available for the purpose in mind. A CPO should only be made where there is a compelling case in the public interest. The

Secretary of State will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the CPO by agreement.

- Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. However, if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost. Therefore, depending on when the land is required, 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. This will also help to make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.
- When making an order, local authorities should be sure that the purposes for which the CPO is made justify interfering with the human rights of those with an interest in the land affected. The officers' report seeking authorisation to make a CPO should address human rights issues.
- The Council has to give due regard to its Equalities Duties, in particular with regard to general duties arising from the Equality Act 2010, section 149 and for the purposes of this report, section 20, Part 2 of the Equality Act. The latter provision creates a duty on public and private organisations to make adjustments for disabled people. Having due regard to the need to advance equality also involves the need to remove or minimise disadvantages suffered by persons.

7. Human Resources Advice and Implications

- 7.1 There are no direct Human Resources implications arising from the recommendations contained in this report.

8. Implications for Children and Young People and Vulnerable Adults

- 8.1 It is not considered that the recommendation would have implications for Children, Young People or Vulnerable Adults.

9. Equalities and Human Rights Advice and Implications

- 9.1 Initial Equalities Screening assessment attached in Appendix 7 of the report. A further Equality Impact Assessment is to be made and findings considered.

10. Implications for CO² Emissions and Climate Change

- 10.1 The current scheme contains two parades of shops that were built 50 years ago, which have poor thermal efficiency and outdated heating and

ventilation systems. The proposed scheme will reduce CO² emissions by meeting Part L of the Building Regulations, will be thermally efficient and incorporate air source heat pumps.

11. Implications for Partners

- 11.1 The scheme is being developed in consultation with private sector partners, existing businesses, and the Dinnington St John's Town Council.

12. Risks and Mitigation

- 12.1 **Risk:** The current funding window for grant spend is March 2026 however risk should be noted with regards to the CPO process which does not have fixed timescales.
- 12.2 **Mitigation:** The Council will continue attempting to acquire outstanding interests by negotiation and will liaise with the funding body with regards to the funding deadline.
- 12.3 **Risk:** Costs decided by Public Inquiry are higher than we have budgeted for.
- 12.4 **Mitigation:** Surveyors and solicitors have been appointed at an early stage to provide 'worst-case' scenarios and ensure all potential compensation costs are covered.

13. Accountable Officers

Kevin Fisher, Assistant Director, Property and Facilities
Simon Moss, Assistant Director, Regeneration and the Environment
Lorna Vertigan, Head of Regeneration

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp OBE	30/09/24
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	24/09/24
Assistant Director of Legal Services (Monitoring Officer)	Phil Horsfield	24/09/24

Report Author: Megan Hinchliff, Regeneration Programme and Strategy Manager

This report is published on the Council's [website](#).