

**THE COUNTY COUNCIL OF DURHAM (AGNES STREET STANLEY)
COMPULSORY PURCHASE ORDER 2021**

STATEMENT OF REASONS

STATEMENT OF REASONS FOR MAKING THE COMPULSORY PURCHASE ORDER

1. INTRODUCTION

- 1.1 This is the Statement of Reasons of the County Council of Durham (the "Acquiring Authority") for making the County Council of Durham (Agnes Street Stanley) Compulsory Purchase Order 2020 (the "Order"). The Order proposes to acquire the three parcels of land shown edged in red on the plan attached to this Statement of Reasons at **Appendix 1** ("the Order Land").
- 1.2 In preparing this statement, the Acquiring Authority has endeavoured to provide sufficient information so that its reasons for making the Order can be properly understood. The Acquiring Authority has prepared this statement pursuant to and in accordance with the "Guidance on Compulsory purchase process and The Crichel Down Rules" issued by The Ministry of Housing, Communities & Local Government in July 2019.
- 1.3 This Statement of Reasons:
1. Identifies the powers under which the Order is made (Section 2);
 2. Sets out the background to the Order (Section 3);
 3. Provides a general description of the "Scheme" (Section 4)
 4. Sets out the Acquiring Authority's reasons and justification for making the Order (Section 5);
 5. Sets out the alternatives to the scheme that have been considered (Section 6);
 6. Describes current negotiations with landowners (Section 7);
 7. Describes the current planning position (Section 8);
 8. Sets out how the Scheme is to be financed (Section 9);
 9. Deals with Human Rights and Equalities issues (Section 10);
 10. Sets out the arrangements for the inspection of documents (Section 11);
and
 11. Sets out contact details for further information (Section 12).

2. POWERS UNDER WHICH THE ORDER IS MADE

2.1 The Order is made under section 226(1)(a) of the Town and Country Planning Act 1990 (the "1990 Act"). The powers in the 1990 Act enable the Acquiring Authority to acquire land compulsorily if;

(i) the Acquiring Authority considers that the acquisition will facilitate the development, re-development or improvement on or in relation to the land and

(ii) that this is likely to contribute towards the promotion or improvement of the economic, social or environmental well-being of its area.

3. BACKGROUND TO THE ORDER

3.1 Development of land on the site known as Agnes Street has been a long-term aspiration for the Acquiring Authority. The Agnes Street site was first identified in the Stanley Masterplan, approved by the Acquiring Authority's Cabinet in March 2012 and updated in November 2016, as a site that requires improvement, due to its negative impact on the locality. The site is visible from the main A693 road through Stanley and is currently vacant and derelict. The site is made up of land owned by the Acquiring Authority, land owned by Whitehall Executive Developments Limited ("WEDL") and land in unknown ownership.

3.2 Agnes Street would appear to have originally led to a Gas Riser. When the Stanley Town Centre bypass was built the road was truncated. Some of the former route is within the land owned by the Acquiring Authority. The remnants of Agnes Street are mainly in unknown ownership except for some land owned by the Acquiring Authority to the north of Agnes Street

3.3 The Acquiring Authority acquired its land holdings in this area for works in conjunction with the Stanley Town Centre Bypass scheme, in the early 1970s. Since the original acquisition of the land by the Acquiring Authority its character has materially changed with the demolition of buildings and creation of elements of highway infrastructure.

3.4 In an attempt to bring forward the regeneration of the Agnes Street site, the land owned by the Acquiring Authority was marketed alongside the land owned by WEDL. After marketing WEDL agreed to option their land to an interested party; Almscliffe Property (Agnes St) Limited ("APL"). The Acquiring Authority has also entered into an option agreement with APL in respect of its land. The option

agreement between the Acquiring Authority and APL also includes that part of the Agnes Street site which is in unknown ownership (subject to the condition that this land is successfully acquired pursuant to a compulsory purchase order). The respective landownership areas are shown on the plan attached to this Statement of Reasons at **Appendix 2** and the land owned by the Acquiring Authority, WEDL and that land in unknown ownership (i.e. the Order Land) are referred to within this Statement of Reasons as “ the Development Site”.

- 3.5 Pursuant to a planning application submitted by APL, planning permission was granted in July 2020 for the erection of 3 retail units including 1 drive through unit with associated landscaping, parking and access on the Development Site.
- 3.6 In order to facilitate the economic regeneration of the area, the Acquiring Authority proposes to acquire the 1001 sq m of Order Land at Agnes Street which is currently undeveloped and used as informal highway verge and unadopted highway to facilitate the redevelopment of the site being that part of the Development Site which is unregistered and in unknown ownership.

4. GENERAL DESCRIPTION OF THE SCHEME

- 4.1 The Order Land is located to the north east of Stanley town centre and adjacent to the A6076 and is considered to be an edge of centre site given it's within 300m of the defined town centre boundary. The site has been vacant for over 20 years with its last known use being a bus storage depot.
- 4.4 The wider Development Site (including the Order Land) is currently undeveloped except for a Gas regulator located to the eastern side of the Development Site. The site is adjacent to a residential care home (Benton Terrace) to the west as well as St Joseph's Catholic Primary School. The Grade II listed Roman Catholic Church of St Joseph is located to the south west of the site. To the north of the site, on the opposite side of the A6076 is a Co-operative store and Stanley Town Centre is to the south west. The development site is accessible via public transport, car, foot and bicycle. The main bus station in Stanley is also 450 m distant from the site
- 4.5 The proposed development of the Development Site will comprise three single storey retail units in Class A1/A3/A5 use (“the Proposed Development”). In terms of layout, the site will be accessed from the west, off Agnes Street which will lead into the main parking area. Units 1 and 2 will be located to the north of the site,

providing an active frontage onto the A6076 whilst Unit 3, the drive-thru will be located to the south of the site.

5. REASONS FOR MAKING THE ORDER

- 5.1 The Acquiring Authority considers that it is necessary to make a CPO in this case, as despite repeated attempts, it has not been possible to ascertain the identity of any person or body with any legal interest in the Order Land. The Acquiring Authority has searched paper records, Land Registry data and contacted the previous adjacent owners, the Gas Board and other parties with the benefit of restricted covenants over other parts of the Development Site. In addition, APL, as part of the planning process issued site and press notices and no parties came forward identifying themselves as having any legal interest in the Order Land.
- 5.2 The Acquiring Authority has carefully considered whether all of the Order Land is required for the provision of the three consented retail units and is satisfied that this is the case. The land sought to be compulsorily acquired is limited to the two identified parcels which are necessary to achieve the quantum of vehicular parking for the scheme and to facilitate safe access egress and circulation between the retail units.
- 5.3 Alternatives to the making of a CPO are considered below but the Acquiring Authority is satisfied that there are no suitable alternatives to the scheme and that there are no impediments from a financial, planning or any other delivery perspective. The Acquiring Authority has taken into account the benefits to be secured from the proposed development which include 65 net new job opportunities created upon completion of the scheme alongside 21 full time equivalent construction jobs and indirect support to a further 31 jobs through the development phase. The Acquiring Authority is therefore satisfied that the making of a CPO will meet the requirements of section 226(1)(a) and 226(1A) of the 1990 Act by improving the economic well-being of the area.
- 5.4 Having carefully considered all relevant factors, the Acquiring Authority considers that there is an overriding public interest in making a compulsory purchase order in respect of the Order Land to facilitate the effective development of the Development Site.

6. ALTERNATIVES TO THE SCHEME

- 6.1 In order to justify the making of a compulsory purchase order, the Acquiring Authority must be satisfied that there are no alternatives available to the scheme.
- 6.2 APL's requirements for the Development Site require sufficient units to be provided to make the scheme viable, which in turn require sufficient area for the development and parking.
- 6.3 The site requirements in relation to the Proposed Development are as follows:
- i. A minimum site size of 0.3ha (+/- 10% for robustness and flexibility) capable of accommodating three buildings comprising a combined floorspace of 449sqm (GEA), with appropriate car parking and circulation space;
 - ii. Capable of accommodating 40 proposed car parking spaces (+/- 10% for robustness and flexibility); and
 - iii. Located within Stanley.
- 6.4 Based on these criteria, fourteen Stanley Town Centre/edge of centre sites have been identified and discounted as they are below the minimum site size threshold.
- 6.5 A further four sites were identified within the town centre which in size terms could feasibly accommodate the proposed scheme. These sites have also been dismissed largely on the grounds of lack of vehicular access or circulation for the proposed drive through unit.
- 6.6 Within the Development Site, various configurations of unit and a reduction in the number of proposed units have been considered. The scheme as proposed maximised the available site in delivering vehicular access and parking to support the three proposed units. A scheme based upon two units only is considered to be unviable and would still require access across the unregistered and unadopted parcel of land at Agnes Street.
- 6.7 Stanley benefits from having a regionally significant dual carriageway road network within proximity to its centre, and as such is able to command "roadside" uses adjacent to its town centre. There have been consistent levels of enquiries for these "roadside" uses, but there has generally been a low-level demand for town centre retail units in the area, despite the road networks proximity to the Town Centre. The Agnes Street site is well located in proximity to the road network and development would form a gateway to the north of the town.

- 6.8 With good proximity to the town centre and Stanley Bus Station the employment opportunities associated with the development are well located and considered to be accessible to local residents
- 6.9 Officers have considered the information submitted by APL and are satisfied that the development proposed is the minimum necessary to secure a viable scheme and that there are no suitable alternative sites upon which the Proposed Development could be located.
- 6.10 In addition, officers have considered whether the scheme would be deliverable without making a CPO. Other options, including claiming adverse possession of the eastern parcel of the CPO Land and seeking a highway declaration on the land in unknown ownership on Agnes Street have been considered. These alternative options have been dismissed as not achieving sufficient title guarantees to meet the requirements of the proposed retail operators for the site. Officers are satisfied that these alternative options would be extremely unlikely to result in the delivery of the regeneration scheme.
- 6.11 It is therefore felt in regeneration terms that development of the Development Site will not only help the general economy of Stanley, but also direct future demand towards the town centre. The Acquiring Authority is satisfied that there is a significant demand for retail development of the type proposed within Stanley and that there are no suitable alternatives both in terms of whether the Proposed Development could be located elsewhere and in terms of whether there are any alternatives to making a CPO in respect of the CPO Land.

7. NEGOTIATIONS WITH LANDOWNERS

- 7.1 In respect of the Order Land, the Acquiring Authority and APL have individually and collectively searched land registry information, undertaken investigations with parties such as neighbouring landowners, the Gas Board, and those with the benefit of restricted covenants over the wider Development Site to try and identify any parties with interest in the CPO land, but without any success. Site notices and press notices were also issued as part of the planning application process and no person has been identified with any legal interest in the Order Land.
- 7.2 In terms of the other parts of the Development Site, the land owned by WEDL has been secured by APL by way of an option agreement until December 2022 and

the Acquiring Authority has entered into an option agreement with APL in respect of that part of the Development Site which is within its ownership.

- 7.3 The option agreement between APL and the Acquiring Authority also includes the Order Land (subject to successful confirmation of the CPO).

8. THE PLANNING POSITION

- 8.1 the proposed retail scheme comprising of the erection of three retail units, including one drive-thru (Class A1, A3 and A5 use) with associated landscaping, parking and access, benefits from full planning consent granted on 1 July 2020. All impacts of the proposed development were considered as part of the planning application process and the development was judged to be acceptable.

- 8.2 Having secured full planning consent there are no impediments to implementing this scheme from a planning perspective.

9. FINANCE OF THE SCHEME

- 9.1 The Acquiring Authority has agreed to fund the CPO process as part of its commitment to the regeneration of Stanley. Sufficient budgetary provision has been ringfenced by the Acquiring Authority to fund the cost of making the CPO, any public inquiry and any compensation or land acquisition costs which might arise. A Compulsory Purchase Order Conduct Agreement is in place between the Acquiring Authority and APL to formalise responsibilities and confirm all aspects of progressing the Compulsory Purchase process.

- 9.2 The development will either be self-funded by the developer or through disposal to an investor once the scheme has de-risked the site acquisition through the exercising of the CPO. Officers have assessed the Proposed Development and are satisfied that it is a financially viable scheme. APL has secured pre-lets with two tenants and has secured an option agreement over the Development Site and is in negotiations with a third tenant. The Acquiring Authority is therefore satisfied that the scheme is likely to be delivered and that there are no financial impediments to delivery of the scheme.

10. HUMAN RIGHTS AND EQUALITIES

- 10.1 The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights ('the Convention'). The Convention includes

provisions in the form of Articles, the aim of which is to protect the rights of the individual.

- 10.2 The following articles of the Convention are relevant to the determination as to whether the Order should be confirmed:
- 10.3 Article 6 entitles those affected by the powers sought in the Order to a fair and public hearing by an independent and impartial tribunal.
- 10.4 Article 8 protects the right of the individual to respect for his private and family life, his home and his correspondence. A public authority cannot interfere with these interests unless such interference is in accordance with the law and is necessary in the interests of, inter alia, national security, public safety or the economic wellbeing of the country.
- 10.5 Article 1 of the First Protocol protects the right of everyone to peaceful enjoyment of possessions. No one can be deprived of their possessions except in the public interest and subject to the relevant national and international laws. As with Article 8, any interference with possessions must be proportionate and in determining whether a particular measure is proportionate a fair balance must be struck between the public benefit sought and the interference with the rights in question.
- 10.6 The Order has the potential to infringe the human rights of persons with an interest in the Order Land.
- 10.7 The Scheme has been designed to minimise interference with the peaceful enjoyment of a person's possessions under article 1 of the First Protocol of the Human Rights Act under which no one is to be deprived of their possessions except in the public interest. Any interference with the right has to be provided for by law and strike a fair balance between the public interest and the protection of the rights of the individual. The Acquiring Authority is satisfied that the land proposed to be compulsorily acquired is limited to the minimum required to result in a viable regeneration scheme. The Acquiring Authority believes that the regeneration of the Development Site is clearly in the public interest and that this outweighs the harm caused by the use of compulsory purchase powers to acquire the CPO land for the scheme. It is not considered that there would be any unlawful interference with any person's human rights under Article 8.
- 10.8 In processing the Order the Acquiring Authority will comply with all relevant legislation and regulations which provide an opportunity for those affected to object

to the Orders and have their representations considered at a public inquiry. It is not considered that there would be any unlawful interference with any person's human rights under Article 6.

- 10.9 The Acquiring Authority has a duty under Section 149 of the Equality Act 2010 when exercising its functions to have regard to the need to (a) eliminate discrimination, harassment, victimisation and any other condition that is prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics include age, disability, sex, race and religion.
- 10.10 The Acquiring Authority is not aware of any circumstances which would suggest that the making of a CPO would have any effect on any persons with a protected characteristic for the purposes of the Act.
- 10.11 Having considered all the factors in this matter, the Acquiring Authority has considered its public sector equality duty in respect of this matter, and it is considered that the exercise of the Acquiring Authority's powers under s.226(1)(a) of the Town and Country Planning Act 1990 (as amended) would not breach the Council's public sector equality duty.
- 10.12 In conclusion, it is not considered that there are any issues relating to Human Rights or Equalities which would prevent the CPO from progressing. However, this issue will be kept under review.

11. INSPECTION OF DOCUMENTS

- 11.1 The following documents are available for public inspection during normal office hours at:
- i. Reception, County Hall, Durham, DH1 5UL:
- 11.2 The documents are:
- i. the Order and accompanying plan; and
 - ii. this Statement of Reasons;
- 11.3 The documents can also be viewed on the County Council's website at www.durham.gov.uk

12. CONTACT DETAILS FOR FURTHER INFORMATION

12.1 Interested parties affected by the Order who wish to discuss matters with the Council should contact Clare Cuskin by one of the following means:

- i. by telephone on 03000 269723
- ii. by e-mail to clare.cuskin@durham.gov.uk;
- iii. by post to Durham County Council, Legal and Democratic Services, County Hall, Durham, DH1 5UL marked for the attention of Clare Cuskin.