

**Name of meeting:** Cabinet  
**Date:** 20<sup>th</sup> September 2016  
**Title of report:** 184 Wakefield Road, Moldgreen - Proposed Compulsory Purchase Order

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the <u>Council's Forward Plan</u> ?	No
Is it eligible for "call in" by <u>Scrutiny</u> ?	Yes
<b>Date signed off by <u>Director</u> &amp; name</b>  <b>Is it signed off by the Director of Resources?</b>  <b>Is it signed off by the Assistant Director - Legal, Governance &amp; Monitoring?</b>	Jacqui Gedman - 07.09.16  David Smith - 01.09.16  Julie Muscroft - 07.09.16
<b>Cabinet member <u>portfolio</u></b>	Councillor Naheed Mather - Housing and Enforcement Management

**Electoral wards affected:** Newsome

**Ward councillors consulted:**

**Public or private:** Public

## 1. Purpose of report

This report seeks authority to make a Compulsory Purchase Order (CPO) for 184 Wakefield Road, Moldgreen to enable it to be demolished as part of a project to demolish seven properties (Nos 172 to 184 Wakefield Road).

## 2. Key points

- It was reported to Cabinet on 22<sup>nd</sup> September 2015 that officers considered that it was expedient to acquire No 184 Wakefield Road, so that it can be demolished with six adjacent Council owned properties (Nos 172 -182 Wakefield Road). All seven properties are vacant. No 184 is derelict.

Cabinet resolved that:-

- Approval be given to the demolition of Nos 172 - 184 Wakefield Road.
- The Assistant Director (Physical Resources and Procurement) be authorised to negotiate the acquisition of No. 184 Wakefield Road if it is possible to make contact with the property owner.
- Approval be given to the principle of acquiring No. 184 Wakefield Road by Compulsory Purchase Order should it not be possible to acquire the property by negotiation.
- That the Assistant Director (Physical Resources and Procurement) be authorised to proceed with site disposal following the completion of the project.

The properties are:-

- In a poor and deteriorating condition and are unsightly. They are in an advanced state of dilapidation with large parts of the roof missing or collapsed in areas.
- Having a negative impact on the appearance and image of Wakefield Road which is a key gateway into Huddersfield town centre.
- Affecting the amenity and outlook of the residents of the adjacent housing development.
- Are detracting from the investment and regeneration which is taking place in the area.

Councillor complaints have been received regarding the condition and safety of the properties. The Council has also received a complaint about the properties from a member of the public via the local M.P's office.

The properties continue to deteriorate and this is resulting in ongoing maintenance responsibilities and costs. Kirklees Neighbourhood Housing (KNH) are monitoring the condition and safety of the properties on a weekly basis.

The properties need to be demolished at the earliest opportunity. However, the Council needs to acquire No 184 before demolition works can take place.

The Council has attempted to acquire the property by negotiation but it hasn't been possible to enter into negotiations with the owner, who has failed to respond to the Council's approaches to acquire the property by agreement. It is therefore necessary to start preparations for a Compulsory Purchase Order.

Planning approval has been granted for the demolition of the properties under planning reference no: 2015/68/93781/W.

### **3. The Need for a Compulsory Purchase Order and the Well Being Test**

Subject to the confirmation of the Secretary of State, the Council has powers under Section 226 (1) (a) of the Town and Country Planning Act 1990 to acquire land compulsorily, if they think that acquiring the land in question will facilitate the carrying out of development, redevelopment or improvement on, or in relation to, the land being acquired and it is not certain that they will be able to acquire it by agreement.

The wide power in section 226(1) (a) is subject to subsection (1A) of section 226. This provides that the acquiring authority must not exercise the power unless they think that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of their area. The Council is under an obligation under the Local Government Act 2000 to fulfil duties in relation to the promotion of these three elements of economic, social and environmental well-being. Government guidance stresses that acquiring authorities should only use compulsory purchase powers where it is expedient to do so and there is a compelling case in the public interest.

The acquisition of No 184 Wakefield Road will enable the Council to proceed with the demolition of Nos 172 - 184 Wakefield Road.

The demolition of No 184 and the adjoining buildings will improve the appearance of a key gateway into Huddersfield town centre; improve the environment for adjacent residents and contribute to the regeneration of the area. It is therefore considered that the proposal will achieve the objective in the well-being test of promoting the environmental well-being of the area.

### **4. Negotiations with the Affected Owner**

The Council has contacted the owner of the property to commence negotiations to purchase the property by agreement. However, despite several attempts over the last 6 months, the Council has not received a formal response to the Council's offer to purchase the property.

### **5. Human Rights Act**

The Human Rights Act 1998 came into force on 2 October 2000. The main articles of the Convention which are of importance in circumstances where the Council is considering making a CPO are Article 8, the right to respect for private and family life and persons' homes and Article 1 of the First Protocol, the protection of property. Section 6 of the Act prohibits public authorities from acting in a way which is incompatible with the Convention. Various Convention rights may be engaged in the process of making and considering CPO's, including under Article 8 and Article 1 of the First Protocol.

The approach to be taken to give effect to rights under the Convention is also reflected in guidance issued on the Compulsory Purchase process published by the Department for Communities and Local Government in October 2015 which states:-

“A Compulsory Purchase Order should only be made where there is a compelling case in the public interest.

An acquiring authority should be sure that the purposes for which the compulsory purchase order is made, justify interfering with the human rights of those with an interest in the land affected. Particular consideration should be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and in the case of a dwelling, Article 8 of the Convention”.

The European Court of Human Rights has recognised in the context of Article 1 of the First Protocol that “regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole”, that is compulsory purchase must be proportionate. Any interference with Article 8 rights must be “necessary in a democratic society” i.e. proportionate. In pursuing a CPO, the Council has to carefully consider the balance to be struck between individual rights and the wider public interest, having regard also to the availability of compensation for compulsory purchase.

In this case, the property is a dwelling, but is not occupied as a home as it is derelict; therefore it is not considered that Article 8 of the Convention is engaged. However, Article 1 of the First Protocol is applicable, and provides that: every natural or legal person is entitled to the peaceful enjoyment of his possessions; and no one shall be deprived of those possessions except in the public interest and subject to the conditions provided for by law. Officers have considered the effect of the Human Rights Act and consider that on balance it would be in the interest of the community to make a CPO, over and above the interest of the individuals affected. Interference with Convention rights is considered to be justified.

## **6. Public Sector Equality Duty**

Public sector acquiring authorities are bound by the Public Sector Equality Duty set out in section 149 of the Equality Act 2010. This requires the Council to have regard to the effect of the proposed compulsory purchase order on any differential impacts on groups with protected characteristics. The protected characteristics being race, disability and gender and also covers sexual orientation, age, religion or belief, marriage and civil partnership, pregnancy and maternity and gender reassignment.

A Stage 1 Equality Impact Assessment (Screening Tool) has been completed to assess the likely impact on equality groups. This indicated that the proposal is likely to have little or no impact on groups. No further equalities impact assessments are therefore required.

## **7. Resources**

A budget of £205,000 to include demolition works and the acquisition of No 184 Wakefield Road was approved by Cabinet on 22<sup>nd</sup> September 2015. The project will be funded from the Council's Capital Allowance budget.

## **8. Consultees and their opinions**

Ward Councillors have previously indicated their support for the proposals approved by Cabinet in September 2015 and have been consulted on this report.

## **9. Next steps**

Subject to Cabinet agreeing to proceed with the CPO, the necessary steps will be taken to make and confirm the order, as outlined in the recommendations below.

Attempts to acquire the property by agreement will continue alongside the CPO progress.

## **10. Officer recommendations and reasons**

### **It is recommended that Cabinet**

- i. Authorises the Assistant Director, Legal Governance and Monitoring, to proceed with the making of a Compulsory Purchase Order for the land shown on 16-0334 under Section 226(1)(a) of the Town and Country Planning Act 1990 and all other enabling powers and submit the order to the Secretary of State for confirmation. The Order should be called the Kirklees Council (184 Wakefield Road, Moldgreen, Huddersfield) Compulsory Purchase Order 2016.
- ii. Confirms that having considered Article 1 of the First Protocol to the Convention on Human Rights, it is in the interest of the community to make the Compulsory Purchase Order and that interference with Convention rights is considered to be necessary and justified.
- iii. Authorises the Head of Legal Services to confirm the Order, if there are no objections to the Order and if directed by the confirming authority, in accordance with Section 14a of the Acquisition of Land Act 1981.
- iv. That the Assistant Director (Place) be authorised to continue negotiations to attempt to acquire the property by agreement and that authority be given to make a discretionary loss payment in accordance with Section 33J of the Land Compensation Act 1973 if appropriate.

**11. Cabinet portfolio holder recommendation**

The Portfolio Holder, Cllr Naheed Mather, supports the recommendations in this report. She is pleased to see the Council is taking action to remove the eyesore and would like the buildings to be removed as soon as possible. Councillor Mather would like to ask, that Cabinet agree to authorise and confirm the officer recommendations as detailed in Section 10 above.

**12. Contact officer and relevant papers**

Julie Hyde  
Senior Development Officer  
Investment and Regeneration Service  
Tel: 01484 221000  
Email:- [julie.hyde@kirklees.gov.uk](mailto:julie.hyde@kirklees.gov.uk)

**Relevant papers**

Cabinet Report 22<sup>nd</sup> September 2015

**13. Assistant Director responsible**

Kim Brear  
Assistant Director - Place  
Tel: 01484 221000  
Email:- [kim.brear@kirklees.gov.uk](mailto:kim.brear@kirklees.gov.uk)

