

**Name of meeting and date: Cabinet – 17 August 2009**

**Title of report: HECKMONDWIKE TOWN CENTRE – PROPOSED COMPULSORY PURCHASE ORDER & STRATEGIC ACQUISITIONS**  
 Report regarding Strategic Land Acquisitions in Heckmondwike Town Centre to facilitate the development of a new Library and Information Centre and Bus Facility and associated highway and streetscape works.

<p><b>Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b></p>	<p><b>Yes/ no or “ not applicable”</b>          Yes  <b>If yes give reason why</b>          This is a strategic project with funding implications in excess of £250,000. Provision has already been made in the Library and Information Centres, Regeneration and Highways and Transportation Capital Plans.</p>
<p><b>Is it in the <a href="#">Council’s Forward Plan?</a></b></p>	<p><b>Yes/ no or “not applicable”</b>          Yes  <b>If yes give date it first went in</b>          April 2008</p>
<p><b>Is it eligible for call in by <a href="#">Scrutiny?</a></b></p>	<p><b>Yes/ no or “ not applicable”</b>          Yes  <b>If no give reason why not</b></p>
<p><b>Cabinet member <a href="#">portfolio</a></b></p>	<p>Regeneration, Environment &amp; Transport</p>

**Electoral wards affected and ward councillors consulted:**

The new Library and Information Centre (LIC), Bus Facility and associated highways and streetscape works are proposed for Heckmondwike Town Centre. This project affects the Heckmondwike Ward. Ward Cllrs Sheard, Hall and Roberts have been consulted.

**Status of Report: Public**

## **1. Purpose of Report**

- 1.1 This report seeks authority to make a Compulsory Purchase Order (CPO) for the land at George Street, Northgate & Royle Fold to enable it to be developed for a new joint Library and Information Centre (LIC) and Bus Facility on the Northgate site in Heckmondwike Town Centre.
- 1.2 The proposed development of a LIC and Bus Facility on the Northgate site is part of the Library and Information Centres Programme, which is being developed as part of the Council's Customer Excellence Strategy. This development is also a key element in the Heckmondwike Revival Programme (a major regeneration programme for Heckmondwike).

## **2. Background**

- 2.1 Since Cabinet of 15 October 2008 and Metro's formal commitment to the joint scheme in November 2008, Officers have continued to work closely with West Yorkshire Metro on feasibility plans for the co-location of a LIC and Bus Facility, on the same site at Northgate, in the heart of Heckmondwike town centre.
- 2.2 The Council has successfully acquired the majority of the property needed for the development through private treaty. These are:
- *80 and 82 Market Place (The George Public House and adjoining buildings)*  
Building have been demolished to make way for highway and streetscape works
  - *8-14 Northgate*  
Buildings have been demolished and site hoarding has been erected to protect the site in readiness for construction works
  - *4-6 Northgate*  
Buildings are still in situ as they adjoin 1,3 & 5 Royle Fold (which is not in Council ownership).
- 2.3 The Council commenced negotiations with property owners on and around the site in May 2006. Negotiations to acquire 1,3,5 Royle Fold by agreement were operating successfully for a period of time but have since failed.
- 2.3 The Highways and Transportation Service has undertaken highway and streetscape improvements associated with the development and these works were completed at the end of March 2009.
- 2.4 An outline planning application has been submitted to the Local Planning Authority (LPA) for permission to progress a joint LIC and Bus Facility on the site, and associated highway and streetscape works to support the scheme.

## **3. The Proposed Development Site**

- 3.1 Cabinet of 13 September 2006 approved the development of a joint LIC and bus facility on the Northgate site, in Heckmondwike Town Centre. The site is centrally located in the town and will accommodate the LIC and a 4-stand bus facility and passenger waiting area. The proposed development will also incorporate a bus night stand on the George Street side of the development and a 'drop off' service area and DDA parking space on the Royle Fold side of the development.

- 3.2 The Council commenced local consultation back in 2005, through the Spen Valley Area Committee, asking local people about their preferred location of a new LIC for the town. This new facility is being developed as part of the Council's Customer Excellence Strategy alongside other Library and Information Centre being developed across Kirklees.
- 3.3 West Yorkshire Metro also consulted on a site for a new bus facility and the Northgate site is the preferred option. It was agreed that the Council and West Yorkshire Metro would work in partnership to develop a joint scheme on the same site and consultation has been ongoing throughout this time.
- 3.4 Consultation has shown that there is a strong local wish for a centralised LIC and Bus Facility in the town.
- 3.5 Officers would like to progress detailed design at risk to allow works to continue whilst the CPO process is being progressed.
- 3.6 Should the CPO not be successful the proposal would be for the LIC to be developed without the bus station and be built on the Council own land. The risk is that there would be some additional design work to reconfigure the design for the different position of the building on the site.'

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

- 4.1 Subject to the approval 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.
- 4.2 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. In discharging this function the Council must have regard to the Community Strategy.
- 4.3 In this case, the proposal represents a project where the Council will be working in conjunction with West Yorkshire Metro to re-develop the site for the provision of a community facility and thereby improving the quality of life of those living, working or otherwise involved in community life of the area, not just restricted to the site. It is therefore considered that a CPO would be likely to contribute to all three objectives in the well-being test.

#### **5. Negotiations with affected owners**

- 5.1 The Council has acquired the majority of the land needed for the development & has attempted to and will continue to attempt to acquire the outstanding interests by agreement, however, negotiations to acquire the property 1,3 & 5 Royle Fold which were progressing positively have subsequently failed.
- 5.2 Additional areas of land which are already owned by the Council but are burdened with third party rights will also be included in the CPO. The land and property is shown on attached plan 09-0511.

## **6. Human Rights Act**

- 6.1 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.
- 6.2 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 paragraph 17 of Circular 06/2004, published by the Office of the Deputy Prime Minister (ODPM): "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 it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected, having regard, in particular, 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".
- 6.3 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.
- 6.4 In this case, the property is not a dwelling, so Article 8 does not apply. 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. Members must consider the effect of the Human Rights Act, and whether on balance it would be in the interest of the community to make a CPO over and above the interest of the individuals affected and that interference with Convention rights is considered to be justified. The right to compensation is an important factor in considering the balance between the two.

## **7. Resources**

- 7.1 Resources have already been identified in the Library and Information Centres, Regeneration and Highways and Transportation Capital Plans.
- 7.2 West Yorkshire Metro has allocated resources for this development in its Capital Plan.

## **8. Recommendations**

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

- i) Authorises the Head of Legal Services to proceed with the making of a Compulsory Purchase Order for the land shown on plan 09-0511 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 (Royle Fold, Heckmondwike) Compulsory Purchase Order 2009.

- 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) Authorises the Assistant Director of Design & Property Service to continue to attempt to acquire the land and property by agreement.
- v) Authorises the progress of detailed design of the LIC, at risk, to allow design work and consultation to continue to progress whilst the CPO process is progressed.

## 9. Portfolio Holder's Comments

Cllr David Sheard (Lead Cabinet Member for Regeneration (North) and Heckmondwike Ward Councillor) 'support officers' recommendations'.

## 10. Consultees

**The following have been consulted and all fully support the report:**

Local Ward Councillors Cllr David Sheard, Cllr Steve Hall and Cllr Roger Roberts

Head of Legal Services, Assistant Director (Design and Property Service), Assistant Director (Highways and Transportation), Head of Culture and Leisure, Head of Planning and Building Control.

West Yorkshire Metro

## 11. Contact Officers

### Author:

Adrienne Stanley, Principal Development Manager, Regeneration Development Service  
Tel: 01484 225743 (x860 5743) e-mail: [Adrienne.stanley@kirklees.gov.uk](mailto:Adrienne.stanley@kirklees.gov.uk)

### Signed:

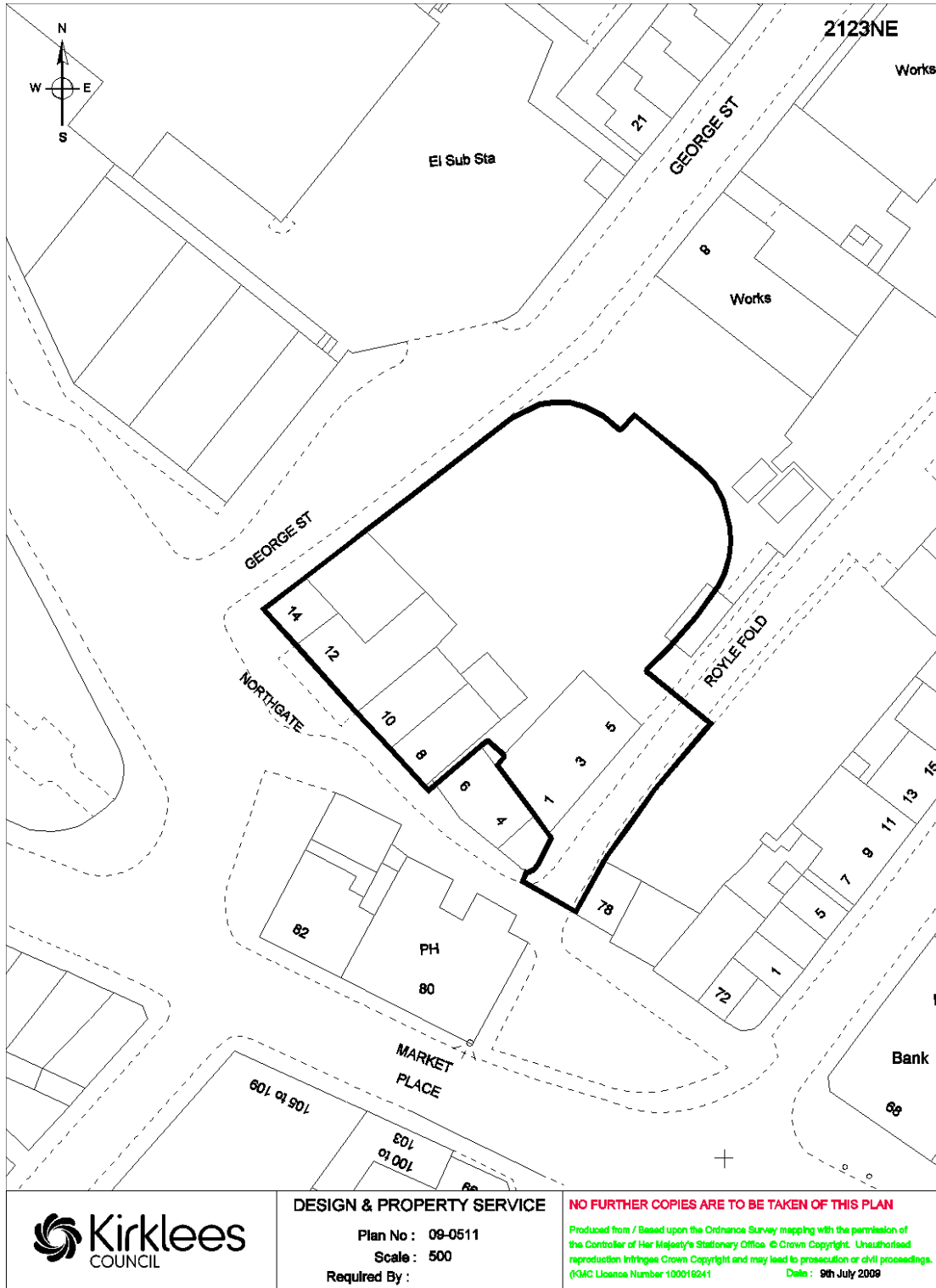
Greg Jennings, Assistant Director (Regeneration)  
Tel: 01484 414868 (x860 4868) e-mail: [greg.jennings@kirklees.gov.uk](mailto:greg.jennings@kirklees.gov.uk)

Christine Pryke, Development Projects Officer, Design and Property Service  
Tel: 01484 226130 (x860 6130) e-mail: [christine.pryke@kirklees.gov.uk](mailto:christine.pryke@kirklees.gov.uk)

Anne McGowan, Project Manager, Library and Information Centres  
Tel: 01484 416783 (860 2783) e-mail: [anne.mcgowan@kirklees.gov.uk](mailto:anne.mcgowan@kirklees.gov.uk)

## **12. Background Papers**

- 1) Cabinet of 12 October 2005**  
Report and business case for the acquisition of land for the development of a Library and Information Centre on Northgate, Heckmondwike
- 2) Cabinet of 11 August 2006**  
Heckmondwike Regeneration – Highways Land Purchase
- 3) Cabinet of 13 September 2006**  
Report and business case for the development of a joint Library and Information Centre and bus facility on the Northgate site with Metro and associated highway and streetscape improvements
- 4) Cabinet of 28 March 2007**  
Report to update on progress and to secure additional funding for the acquisition of properties required for the proposed joint development
- 5) Cabinet of 14 November 2007**  
To refresh the objectives and report on the progress to develop Library and Information Centres across Kirklees.
- 6) Cabinet of 15 October 2008**  
Report to obtain approval to progress the proposed design option with West Yorkshire Metro.



## HECKMNONDWIKE TOWN CENTRE

**Proposed Compulsory Purchase Order  
Cabinet 17<sup>th</sup> August 2009**