

Report title: BUXTON HOUSE COMPULSORY PURCHASE ORDER

Meeting	Cabinet
Date	5 November 2024
Cabinet Member (if applicable)	Cllr Moses Crook
Key Decision Eligible for Call In	Yes Yes

Purpose of Report
To authorise the making of compulsory purchase order (CPO) for the acquisition of interests in land that need to be within the Council’s control to enable the remodelling of Buxton House in accordance with planning consent number 2024/48/90109/W.

Recommendations

Cabinet authorises:

1. the Council in the making of a CPO of the land shown coloured pink and edged red (“the Order Land”) on the plan contained at Appendix 3 under section 226(1)(a) of the Town and Country Planning Act 1990 for the reasons set out in the Statement of Reasons (Appendix 1) and because it thinks that:
 - the acquisition will facilitate the carrying out of the development, redevelopment, or improvement (including regeneration) on or in relation to the Order Land; and
 - 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.

Cabinet notes:

2. The purchase of the ALB headlease will engage section 203 of the Housing and Planning Act 2016 and allow the Council to override rights to facilitate the temporary closure of the Albion Street Car Park to provide a site compound and safe working space. Compensation may be payable under section 204 of the Housing and Planning Act 2016 to those whose rights are interfered with from the project budget.

Cabinet delegates authority to:

the Executive Director for Place in consultation with the Service Director – Legal, Governance and Commissioning to:

3. 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 the publication and service of all relevant notices and the presentation of the Council’s case at any future local public inquiry;

4. 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);
5. negotiate agreements to temporarily amend rights over the Albion Street Car Park
6. make payment of any compensation due under section 204 of the Housing and Planning Act 2016

the Service Director Legal Governance and Commissioning to:

7. finalise and enter into all appropriate contracts, deeds and documents required.

Reasons for Recommendations

8. Cabinet approved the remodelling of Buxton House in July 2021. The project will address critical fire safety issues and create accommodation that meets modern standards and future resident requirements. Subsequent due diligence identified that an element of site assembly would be required to support and de-risk the scheme to enable the remodelling project to proceed.
9. Cabinet approved the site assembly strategy for Buxton House in March 2024. It was agreed at the time that a further report would be brought to Cabinet if it became necessary to make a CPO. Although efforts to acquire the various interests are ongoing, the project is time sensitive and needs to progress to ensure that it can be completed within the allocated budget and new affordable housing re-provided as soon as possible. It is therefore necessary to make a CPO to ensure that any outstanding interests can be acquired within a timely manner.
10. Cabinet is recommended to authorise the making of the CPO and the preparation of the necessary notices in readiness for submission to the Minister for confirmation of the made CPO on the basis that there is a compelling case in the public interest to acquire the remaining interest compulsorily to allow the scheme to remodel Buxton House to proceed.

Resource Implication

- The acquisition of the land interests and the CPO costs will be funded from the £16m Buxton House budget approved by Cabinet on 27 July 2021.
- The project is being managed by existing resources within the Homes and Neighbourhoods Development Team.

Date signed off by Executive Director & name

David Shepherd
Date 21 August 2024

Is it also signed off by the Service Director for Finance?

Kevin Mulvaney
Date 24 October 2024

Is it also signed off by the Service Director for Legal Governance and Commissioning?

Samantha Lawton
Date 24 October 2024

Electoral wards affected: Newsome

Ward councillors consulted: Yes

Public or private: Report and Appendices 1-3 are public. Appendix 4 is private.

Has GDPR been considered? Yes

1. Executive Summary

- In July 2021, Cabinet approved a proposal to remodel Buxton House to improve the quality of the accommodation on offer and to improve fire safety within the building.
- Planning consent for the remodelling proposals was granted on 15 July 2024.
- The council owns the freehold of Buxton House, but it is subject to various leasehold interests, some of which need to be acquired for the Council to be able to implement the remodelling scheme and ensure that appropriate fire protection measures are implemented and maintained in those parts of the building directly below the residential tower block.
- In March 2024, Cabinet approved the proposal to acquire the necessary interests, including taking the preliminary steps needed for the Council to make a CPO for any interests which it is unable to acquire voluntarily.
- The Council has subsequently acquired all but one of the land interests necessary for the project to proceed. As the project is time sensitive and needs to progress, this report requests a CPO be made for the one remaining leasehold flat in Buxton House. The Statement of Reasons (SOR) in support of the CPO, Equality Impact Assessment, details of the interest to be acquired and the latest financial position on the scheme are attached at Appendices 1-4 respectively.
- This report gives brief details of the progress made on the project to date and seeks approval to request a CPO to enable the acquisition of the one remaining leasehold flat and to prepare the necessary notices in readiness for submission of the CPO to the Minister.

2. Information required to take a decision

Background and scheme progress

- 2.1 Buxton House is a high-rise residential block in Huddersfield town centre comprising 19 one-bedroom flats and 38 bedsits.
- 2.2 On 27 July 2021 Cabinet resolved to remodel Buxton House as part of a £57 million high-rise programme. This programme was instigated by fire safety concerns and requirements and requires vacant possession of the Buxton House Flats. Please refer to the earlier report for full details.
- 2.3 Since the last report to Cabinet in March 2024 the Council has acquired ALB (Kirklees) Limited's headlease interest in Buxton House, the commercial units below the tower and the first-floor car park. It now owns these interests Freehold. It has also acquired a further 3 long-leasehold interests. The Council's freehold remains subject to three leasehold interests one of which is a residential long leasehold interest within Buxton House which must be acquired to facilitate the project.
- 2.4 During the progression of the project, it has become clear that acquisition of a right over the car park, as previously reported in March 2024, would be insufficient to ensure that the Council could control access during the construction period. The Council has

therefore also acquired the first-floor car park.

- 2.5 Detailed planning consent for the proposed scheme was obtained on 15 July 2024.
- 2.6 The process of rehousing social tenants began in autumn 2023 and 33 of the 57 flats (58%) are now vacant.
- 2.7 A project team continues to manage the remodelling project. The team comprises officers from Homes & Neighbourhoods with support on specialist areas of work provided by Legal and Corporate Landlord. The Council has also appointed AHR as architect and project manager. The external professional team are revising the detailed designs and specification in the light of comments received during an internal consultation process with housing management, repairs and technical staff. At the same time, officers are working with AHR and the Council's Employer's Agent, Currie & Brown to produce a tender pack with a view to procuring the scheme in October 2024. Following the appointment of a successful contractor, the project team will work closely with them to develop the detailed design further, refine the contract price and make the necessary Gateway 2 submission to the Building Safety Regulator prior to construction being allowed to start.
- 2.8 Subject to securing vacant possession of all interests necessary to carry out the remodelling project, and the receipt of Gateway 2 approval from the Building Safety Regulator, the Council intends to start work on the new scheme in November 2025, with an anticipated 24-month contract period. This programme allows for the minimum time needed to acquire properties via a CPO – should objections to the CPO be received, the start on site date is likely to be delayed.

Compulsory Acquisitions

- 2.9 The CPO request will cover the one leasehold flat in Buxton House that the Council has not yet acquired, and details are set out in Appendix 3. All other acquisitions necessary for the implementation of the project have been achieved voluntarily.
- 2.10 The Statement of Reasons (SOR) in support of the CPO is attached at Appendix 1 and sets out the Council's case for using compulsory purchase powers to acquire the remaining residential property. The statement has been prepared on the advice of the Council's external solicitors who have been appointed specifically for their expertise in the preparation of cases for CPOs.
- 2.11 No agreement to purchase has been made with the owner of the one leasehold property in the tower block as officers have received no response to their attempts to contact them. This property will need to be acquired through a CPO. Officers have submitted a best and final written offer to the property address setting out that the Council intends to pursue a CPO if the offer is not accepted. Officers will continue to attempt to make contact.
- 2.12 The case for the compulsory acquisition of this property is set out in the SOR.

Overriding of Rights

- 2.13 The car park deck was acquired in October 2024 for the purposes of temporarily closing the car park so that it could be used as a site compound and the roadway to the east of

Buxton House will be obstructed by scaffolding for the duration of the project. This is necessary for the purposes of carrying out the works to Buxton House for which planning consent has been obtained. Had the Council needed to do so it could have acquired the car park deck compulsorily.

- 2.14 The car park is subject to various rights of access by the tenants of shops on New Street and their landlord ALB (Kirklees) Limited, who have the right to access entrances to their properties and to load and unload goods from the car park.
- 2.15 The acquisition of the lease relating to the car park deck and roadway to the east of Buxton House has the effect of engaging section 203 HPA 2016 and by taking steps to temporarily close the car park and roadway, the Council will be obliged to compensate those businesses affected by any interference with their rights of access to their premises.
- 2.16 No discussions have been held to date to voluntarily modify or suspend the rights sub-lessees have over the car park. A referencing agent has been instructed to identify the owners of all rights that are present and a package of measures to be offered to the sub-lessees to minimise the inconvenience is being considered. Negotiations will begin once the referencing information has been received.

Rehousing of Social Tenants

- 2.17 The process of rehousing social tenants began in autumn 2023 and 33 of the 57 flats (58%) are now vacant. It is hoped that this process will be complete by January 2025. Tenants are currently Band 2 priority and are bidding for properties on Kirklees Council Choose 'n' Move and are being supported by Kirklees Homes and Neighbourhoods team with their moves. Tenants receive the statutory Home Loss payment, assistance with removals and a contribution to new flooring and window dressings for their new property.
- 2.18 Should any tenants decline to move, having received opportunities for acceptable alternative accommodation then the Council has powers to seek a court order for possession.

Feedback from Homes & Neighbourhoods Improvement Board (HNIB)

- 2.19 An earlier draft of this report was presented to HNIB on 9 September. The Board queried whether, if the CPO should fail, is there a steer from Legal as to the percentage to that potentially happening. The Director advised it was highly unlikely this would happen as it had been through a very robust process therefore is a low risk. The Board endorsed the progression of the report to Cabinet.

3. Implications for the Council

3.1 Council Plan

The proposal is in line with the priorities identified in the Council Plan as follows.

Address our financial position in a fair and balanced way

The budget for the scheme has been considered and was approved by Cabinet in July 2021. In addition, the proposal is expected to reduce the level of expenditure on repairs and maintenance to the building as well as offering lower running costs. Void losses will be minimised by improving the desirability and choice of accommodation on offer. Complying

with modern fire safety standards will also mean savings on the cost of the 24-hour waking watch. The two retail units acquired as going concerns will generate additional rental income.

Please refer to the private Appendix 4 for details of the current budget position. The budget information was updated immediately prior to the Cabinet report being issued, including adjustments for inflation. Please note, however that until we have a firm price from a contractor, the works cost element is subject to change.

Strive to transform council services to become more efficient, effective, and modern.

The remodelling of Buxton House will improve safety by bringing the building up to the standards introduced under the Building Safety Act 2022, provide apartments that are suitable for modern day living including wider corridors, larger communal areas, and a new entrance, and provide more efficient energy use and insulation. Many of the improvements have been included as a direct result of the consultation undertaken with existing residents. It is proposed that the building be linked to the Council's extended district heating network which will provide an efficient heating solution as well as an increased customer base for the heat network. The installation of photovoltaic panels on the roof will also provide a source of income for the Council.

Continue to deliver a greener, healthier Kirklees and address the challenges of climate change.

Improvements in the thermal performance of the building, ensuring residents have warm, well-insulated homes that are affordable to heat will contribute to improved health for residents. The use of renewable energy sources such as the district heating system and photovoltaic panels will also help to reduce the carbon emissions generated by the project and the decision to retain, rather than redevelop the building will result in a reduction in carbon generated through the construction phase as well as a reduction in the extent of materials used and waste generated.

Extending the habitable life of Buxton House and retaining town centre living with access to amenities and public transport reduces car reliance.

Continue to invest and regenerate our towns and villages to support our diverse places and communities to flourish.

This project represents a £16 million investment in Huddersfield town centre, providing quality, sustainable and affordable accommodation for those on the lowest incomes. Consultation with residents has told us that there is healthy demand for town centre living where residents can be close to shops, services and public transport options. This project will complement the aims of the Huddersfield Blueprint to help make the town centre a great place to live. The construction phase will generate employment opportunities as well as additional footfall and spend within the town centre.

3.2 **Financial Implications**

Please refer to paragraph 3.1 above and Appendix 4 (private) which shows the budget and actual spend to 31 August 2024. Officers are reviewing the budget and expenditure on professional fees to ensure the figures have been reported correctly. The budget for works costs, which is being funded from HRA Capital, includes an allowance for inflation, based on the expected construction programme, however until a firm price has been received from a contractor, this element of the cost is subject to change. Whilst officers have reviewed the budget for the scheme and it considered robust, there is always a risk on projects of this nature that unforeseen costs may arise. As this is a HRA funded capital programme, there may be an impact on future delivery of other capital plans.

3.3 Legal Implications

The Council has engaged specialist external legal advisers support in progressing the CPO process.

The Council has the power under Section 226(1)(a) of the Town and Country Planning Act 1990 (“the Act”) to make a compulsory purchase order to acquire land in its area if it thinks that the acquisition of the land will facilitate the carrying out of development, redevelopment or improvement (including regeneration) on or in relation to the land.

Section 226(1A) of the Act provides that the Council may not exercise this power unless it thinks that such development, re-development or improvement is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of its area.

The legal considerations and reasons why a CPO it is recommended are contained in the Statement of Reasons at Appendix 1. It is difficult to predict how long the purchase of the property, if a CPO is granted, will take to complete. Legal advice suggests that where an Order is not contested, the process should take around 12 months. This has been built into the project timescale, however a delay in obtaining possession will mean that the construction element of the project cannot start in November 2025 as planned with a corresponding delay to the project completion date. The contractor will be required to hold their final construction cost for a period of 90 days – any delay to being able to award the contract as a result of delays in the CPO process could result in an increase in construction cost.

Councils have a power to carry out building or maintenance work under section 203-205 of the Housing and Planning Act 2016 even where this may “interfere” with rights provided:

- (a) there is a planning consent for the building work
- (b) the work is being carried out on land which was acquired or vested in the Council after 13 July 2016
- (c) the Council could have acquired the land compulsorily for the purposes of the building work.
- (d) the building work must be for the purposes for which the land was acquired or vested.

The Council has the power to seek possession of dwellings subject to a secure tenancy by virtue of Ground 10 of Schedule 2 Part II of the Housing Act 1985 where:

The landlord intends, within a reasonable time of obtaining possession of the dwelling-house—

- (a) to demolish or reconstruct the building or part of the building comprising the dwelling-house, or
 - (b) to carry out work on that building or on land let together with, and thus treated as part of, the dwelling-house,
- and cannot reasonably do so without obtaining possession of the dwelling-house.

3.4 Other (e.g. Risk, Integrated Impact Assessment or Human Resources)

The project is being managed by an experienced multi-disciplinary team, which maintains and monitors an extensive risk register on a monthly basis. An Equality Impact Assessment of the making of a CPO and implementation of the scheme is included in this report at Appendix 2 and should be considered by Cabinet before a decision is made.

4. **Consultation**

Please refer to the 12 March 2024 Cabinet report for details of the consultation that has been undertaken on this project.

5. **Engagement**

Since the last report to Cabinet on 12 March 2024 resident engagement took place in a vacant flat at Buxton House on 23 April 2024. The purpose of the engagement was to showcase the planning application, to explain the changes to the design that had taken place since the previous consultation and to understand any queries or concerns that residents had about the proposals. Around one third of the remaining residents attended the event with 8 providing feedback to say they liked the proposals. One resident identified a number of concerns around the layout of the 1-bedroom flats. These were discussed with the architects who explained that the constraints and structure of the building meant that it would not be possible to accommodate the suggested amendments to the flat layouts. Colleagues from housing management accepted the reasoning and provided feedback to the resident.

6. **Options**

6.1 **Options Considered**

Option 1 (recommended) – Cabinet approves the making of the CPO and the preparation of the necessary notices in readiness for submission of the CPO to the Minister.

Option 2 (not recommended) – Do nothing

This would mean the Council was unable to proceed with the comprehensive remodelling of Buxton House due to the absent leaseholder's interest. Given the Council's statutory obligations under the Building Safety Act 2022 there is a need to carry out the proposed works and it is not possible to leave the flat subject to a lease untouched as it is because of the physical changes that need to be made to the building. A significant amount of design work was undertaken at an early stage to identify a solution that adequately addressed the other issues with the block yet enabled leaseholders to remain in place. However, no acceptable design could be found, mainly due to the need to widen corridors and create fire safety compliant service runs. This would eventually lead to the Council having to cease housing tenants in the building and a loss of affordable housing in the town centre.

6.2 **Reasons for recommended Option**

This option reduces the risk that the project might not be able to proceed and gives more certainty over the timescale for being able to acquire the land interests and rights necessary for the remodelling of Buxton House to go ahead.

7. **Next steps and timelines**

Issue works tenders – Late-October

November 2024 – October 2025 – Implement the CPO process to acquire any remaining interests

January - February 2025 – Tender evaluation and contractor appointment on Pre-Contract Services Agreement

End January 2025 - Rehousing of existing residents complete

February - June 2025 – Work with contractor and the Council's architect, AHR to refine and finalise detailed scheme design and make Gateway 2 submission to the Building Safety Regulator

September 2025 – Gateway 2 approval received and works cost agreed

October 2025 – Contractor appointed

November 2025 – Construction starts

October 2027 – Scheme complete

8 Contact officer

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9 Background Papers and History of Decisions

16 February 2021 – Cabinet Report and Decision
Consultation with tenants of (i) Berry Brow/Buxton House: Remediation/Refurbishment or Demolition and New Build Consultation (ii) Harold Wilson Court: Fire safety improvements; Sprinkler/EWI/Compartmentation

27 July 2021 – Cabinet Report and Decision
To consider the outcome of Tenant and Leaseholder consultation and Proposals on the future of four of the Council's high-rise blocks - Bishop's Court, Holme Park Court at Berry Brow and Buxton House and Harold Wilson Court to improve fire safety.
Decision – to progress the remodelling of Buxton House

12 March 2024 – Cabinet Report and Decision
Buxton House High Rise Block – Site Assembly.
Decision – to progress the acquisition of the interests needed to deliver the project and take the preliminary steps necessary for a CPO.

10 Appendices

Personal information in Appendices 2 and 3 has been redacted for GDPR reasons.

Appendix 1 – Draft Statement of Reasons
Appendix 2 – Equality Impact Assessment
Appendix 3 – Draft Order Schedule and Map
Appendix 4 (private) – Current budget position

11 Service Director responsible

Naz Parkar, Service Director – Homes and Neighbourhoods