
CPO Report to the Secretary of State for Communities and Local Government and Stopping Up Order Report for the Secretary of State for Transport

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**an Inspector appointed by the Secretary of State for Communities and Local Government and the
Secretary of State for Transport**

Date: 7 March 2017

TOWN AND COUNTRY PLANNING ACT 1990

ACQUISITION OF LAND ACT 1981

THE COUNCIL OF THE BOROUGH OF SOUTH TYNESIDE (BARRINGTON STREET,
CORONATION STREET, EAST STREET, KEPPEL STREET AND KING STREET)
COMPULSORY PURCHASE ORDER 2016

TOWN AND COUNTRY PLANNING ACT 1990

THE STOPPING UP OF HIGHWAYS (NORTH EAST) (NO.) ORDER 201

Inquiry held on 13 & 14 December 2016
Inspection was carried out on 15 December 2016

File Refs: APP/NPCU/CPO/A4520/76701 & DPI/A4520/16/19

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CPO File Ref: APP/NPCU/CPO/A4520/76701

Land, premises, car parks, public roads and footways at East Street, East Smithy Street, King Street, Chapter Row, Barrington Street, Cornwallis Street, Wallis Street, Nelson Street, Coronation Street, Waterloo Square, Keppel Street, Albemarle Street, William Street, Burrow Street and South Shields Metro Station, South Shields

- The Compulsory Purchase Order was made under section 226(1)(a) of the Town and Country Planning Act 1990 and the Acquisition of Land Act 1981 by the Council of the Borough of South Tyneside on 12 May 2016.
- The purposes of the Order are to provide for the comprehensive enhancement of the retail and leisure offer in South Shields Town Centre, integrating and improving its public transport facilities, improving pedestrian flow, and improving the urban fabric of the Town Centre.
- Initially there were 12 qualifying Objections to the Order, with 7 remaining when the inquiry opened. At the close of the inquiry one further Objection had been withdrawn leaving 6 outstanding. There were no additional non-qualifying objections.

Summary of Recommendation: The Compulsory Purchase Order be confirmed with the requested modifications

SUO File Ref: DPI/A4520/16/19

Sections of highway on or adjacent to East Street, Chapter Row, Keppel Street, Barrington Street, Wallis Street, Waterloo Square, Coronation Street, Albemarle Street, William Street, Burrow Street and the railway embankment, South Shields

- The proposed Stopping Up Order would be made under s247 of the Town and Country Planning Act 1990 by the Secretary of State for Transport.
- The purposes of the Order are to enable development to be carried out in accordance with planning permissions ST/0660/15/FUL and ST/0664/15/OUT.
- Initially there were 9 Objections, with 5 remaining when the inquiry opened and still remaining when it closed.

Summary of Recommendation: The Stopping Up Order be made with the requested modifications

PROCEDURAL MATTERS AND STATUTORY FORMALITIES

1. The inquiry opened on 13 December and sat for two consecutive days. In addition to informal unaccompanied inspections of the area, an accompanied site visit was carried out on 15 December.¹

¹ ID14

2. The acquiring authority, the Council of the Borough of South Tyneside (AA), confirmed at the inquiry that all the statutory formalities had been complied with.²
3. None of the Objectors nor any other interested person appeared, or was present, at any time during the inquiry.

Requested modifications to the Compulsory Purchase Order (CPO)³

4. The AA requests the Order be confirmed with the following modifications incorporated:
 - Removal of plots 7, 8, 11 and 99 – resulting from a revised highway arrangement to address the concerns of existing service yard users.
 - Correction of ownership details for plots 2, 3 and 4.
 - Removal of plot 46 which was included in error.
5. An updated Schedule incorporating these modifications to accompany the CPO and a revised CPO Order Map as proposed to be modified have been provided.⁴

Requested modifications to the Stopping Up Order (SUO)⁵

6. The Secretary of State for Transport is asked to modify the Order on making to enable the stopping up of highways in two separate phases – Phase 1 and Phase 2 – should that be required. No other modification is requested.

Objections

7. Initially there were 12 Objections to the CPO. Five were withdrawn before the inquiry opened and one more was withdrawn during the inquiry. At the close, 6 Objections remained.
8. Initially there were 9 Objections to the SUO.⁶ Four were withdrawn before the inquiry opened. At the close, 5 Objections remained; those Objectors also comprising 5 of the 6 remaining Objectors to the CPO.
9. In other words, overall, no more than 6 Objectors remained.
10. Whilst an Objection to the CPO and subsequent withdrawal from Northern Powergrid is included in the Core Documents⁷, that was not recorded as a Statutory Objection. That may be because it was addressed to the AA rather than to the Secretary of State.

This Report

11. In this report, following a description of the Order Lands and the Proposed Development, the Objections to both Orders are set out before the case for the

² CD5-15 and CD18-21

³ ID17

⁴ ID24 & ID25

⁵ ID13

⁶ The Objection from DWP and Telereal Trillium has been counted as a single objection

⁷ CD24

AA. This is because, firstly, many of the concerns expressed, including in Objections now withdrawn, are of a general nature (such as potential conflict with the Development Plan, the availability of funding and viability) and are matters covered in the general case made by the AA. Secondly as no Objector appeared at the inquiry, the AA's case was presented seamlessly.

SOUTH SHIELDS AND THE ORDER LAND

12. Located on a peninsular, South Shields is the largest of three sister towns (South Shields, Jarrow and Hebburn) which line the south bank of the River Tyne. Situated at the mouth of the Tyne, South Shields has three character areas⁸, the Foreshore, Riverside and Town Centre. It is the administrative centre for the Borough of South Tyneside.
13. The centre of the peninsular is dominated by the Town Centre. At its heart are the historic Market Place and the Grade 1 listed Old Town Hall. The main shopping area is linear in nature along King Street. Waterloo Square to the south was built in 2006 and provides some modern retail floor space which has attracted national brands. The secondary shopping area of Fowler Street runs from King Street to the Victorian Town Hall on Beach Road. There is also a large modern supermarket with surface parking on the south western side of the centre.
14. Public transport accessibility to the town is good in that it is well served by buses and the Metro light rail system, both of which penetrate the heart of the centre.
15. The land proposed to be compulsorily acquired and/or used pursuant to the Order comprises land, premises, car parks, public roads and footways at: East Street, East Smithy Street, King Street, Chapter Row, Barrington Street, Cornwallis Street, Wallis Street, Nelson Street, Coronation Street, Waterloo Square, Keppel Street, Albemarle Street, William Street, Burrow Street and South Shields Metro Station.
16. The Map to the CPO identifies the Order Land and highlights the land to be acquired in pink and the land on, over or under which the new rights are to be acquired in blue. A fuller description of the Order Land is set out in Section 4 of The Statement of Reasons⁹ but in brief might be said to comprise 4 general areas:
 - The existing metro station and walkway
 - A rectangular area south of Keppel Street and west of Fowler Street (for the proposed transport interchange) including railway tracks, Royal Mail Sorting Office, Post Office, other commercial properties and cleared land.
 - A roughly square area of land including some properties along King Street to the north and extending down to Coronation Street to the south. It includes the Job Centre, various commercial properties and cleared land but specifically excludes the listed building No.16 Barrington Street.
 - An existing surface car park at Oyston Street.
17. The sections of highway to be stopped up are on or adjacent to East Street, Chapter Row, Keppel Street, Barrington Street, Wallis Street, Waterloo Square,

⁸ E1 section 4 and Document E3

⁹ CD3

Coronation Street, Albemarle Street, William Street, Burrow Street and the railway embankment. Site Plan 1 accompanying the draft SUO identifies the parts of the highways to be stopped up whilst Site Plan 2 identifies those parts of the highways to be improved and new highways to be provided.¹⁰

THE PROPOSED DEVELOPMENT

18. The proposed development, from which the need for the CPO and SUO arise, (hereinafter referred to as The Scheme) comprises three components: the **Masterplan Development**, the **Transport Interchange** and **Highway Works**.
19. The **Transport Interchange Development** was granted planning permission on 23 November 2015.¹¹ It is to comprise:
 - a) Demolition of the existing Metro station on King Street, Royal Mail delivery office and Post Office on Keppel Street, and properties on Keppel Street (numbers 3, 5 and 7) and William Street (numbers 8, 10 and 12).
 - b) Erection of a new Transport Interchange to consolidate bus and Metro services, comprising:
 - i. A new Interchange building (up to 1,674 m²);
 - ii. A Metro station;
 - iii. A bus station with 14 bus bays, a coach bay, a coach/passenger drop-off bus bay and three layover bus bays;
 - iv. 15 spaces for customer drop-off and short stay parking;
 - v. New vehicular crossover to Keppel Street to allow vehicle egress;
 - vi. Separate class A1 retail units (two units of a little less than 150 m²) together with class B1 office accommodation at first floor (310 m²) and second floor (306 m²). Planning permission has now been granted for an alternative use of the Class A1 units for A2 purposes.
20. The existing bus stands and shelters along Keppel Street would be removed. With the exception of the rail tracks and associated structure, the remainder of the station and upper platform will be demolished leaving an open space, linking Interchange Square and King Street. Keppel Street is to become one way, allowing the narrowing of the vehicular carriageway. The use of raised tables will indicate crossing points for both pedestrians and drivers.
21. Outline planning permission¹² for the **Masterplan Development** was granted on 15 December 2015 comprising:
 - a) Demolition of properties on King Street (numbers 83 to 99), Barrington Street (number 14 and the Cross Arms public house), Cornwallis Street (numbers 5 to 11), Coronation Street (numbers 2 to 10), Waterloo Square (numbers 20 and 22), East Street (number 15), Chapter Row (Job Centre Plus);
 - b) Erection of class A1 retail units (up to 7,028 m²);
 - c) Erection of class A3 restaurants and cafes (up to 2,060 m²);

¹⁰ CD17

¹¹ CD47

¹² CD48.

- d) Erection of class D2 cinema (five screens, approximately 890 seats) (up to 2,745 m²) at a site north of Coronation Street and east of Cornwallis Street;
 - e) Multi-storey car park (300 spaces on four floors) (up to 10,000 m²) at the site of the existing Oyston Street car park; and
 - f) Public realm improvements adjacent to the new buildings with landscape treatments.
22. Condition 3 of the Masterplan Permission requires any submission for approved matters to be in accordance with the approved Masterplan. On 9 November 2016 the Council approved¹³ an application under section 96A of the Town and Country Planning Act 1990 ("the 1990 Act") for a non-material amendment to condition 3, to allow greater flexibility by requiring any submission for the approval of reserved matters to be in "general accordance" with the approved Masterplan. Development is now proposed to take place in accordance with a revised Masterplan¹⁴ which is in general accordance with the originally approved Masterplan, and thus falls within the ambit of the Masterplan Permission.
23. As well as the demolition described above, there would be road closures at Barrington Street, East Street and Chapter Row. New retail units are to be constructed to front King Street, replacing older units and providing a link to the southern part of the Town Centre. Barrington Street is to be realigned and would provide a walkway from King Street to the redeveloped Barrington Street area and further on to the Waterloo Square retail complex.
24. The demolitions and realignment of streets would provide space for a new public square, Barrington Square, at the south side of Chapter Row. Adjacent to Barrington Square will be the new building containing the cinema together with a number of restaurants. Around the square will be new retail units providing up to 7,028 m² of retail space. These will be designed as two-storey units to provide a continuation of streetscape from King Street and allow retailers to trade from upper levels if desired.
25. Two further public spaces, the Waterloo Vale Square and the East Street Square would be provided to either side of the new units flanking the pedestrian connection to King Street.
26. A multi storey car park for some 300 vehicles is proposed to replace the existing surface car park at Oyston.
27. The proposals are shown on the revised Masterplan¹⁵ and described in Document E8, 5.18-5.29 with illustrations at appendix 4 of Document E10.
28. The Transport Interchange Development and Masterplan Development require substantial reconfiguration of the public highway. The **Highway Works** are described in documents E8 (5.30 onwards) and E17 (sections 4, 6 and accompanying appendices)

¹³ CD49

¹⁴ ID15 brought about by the need to facilitate servicing for existing units – see E4, 6.4

¹⁵ ID15

THE OBJECTIONS

OBJ 1 – SLA Property Company Ltd and PGS Law Ltd¹⁶ Plots 36, 37, 38, 39, 49, 50, 51, 52, 53 & 59 Objection to CPO only

29. The Scheme fails to provide for any A2 uses (Financial and Professional Services) despite the existing presence of such uses including the premises of the Objector. The failure to provide for such services is inconsistent with the overall economic and social well-being of the Town Centre, and is contrary to the provisions of the Area Action Plan where the area now designated for D2 (Assembly and Leisure) and A3 (Restaurants and Cafes) is identified by policy SS2 (A)(vi) of the Plan for Class A1 and A2 uses. There should be provision within The Scheme for A2 uses and/or the exclusion of the land of the Objector from the Order.
30. The Statement of Reasons is ambiguous as to the actual source of funding of the construction costs. The degree to which other bodies have agreed to make financial contributions or underwrite The Scheme has simply not been addressed. The availability of adequate funds to complete the regeneration scheme has not been demonstrated. The omission of the supermarket, formerly intended, is potentially fatal to the viability of The Scheme.
31. The Order should not be confirmed or, in the alternative, should be confirmed with modifications, namely the exclusion of the Objectors' lands.

OBJ 2 – Network Rail¹⁷ Plots 63, 66, 100, 101 & 102 Objection to CPO only - WITHDRAWN

32. Concern was expressed about various Rights and Restrictive Covenants which the Objector might wish to retain but the objection was withdrawn within 28 days of being made.

OBJ 3 – Sportsdirect.com¹⁸ Plot 99 Objection to CPO only - WITHDRAWN

33. The Objector has rights over Plot 99 for servicing at all times and for the placing of refuse. There is concern as to how works will be managed to minimise disruption for servicing and refuse collections and over the extent of the new access way.
34. The Objection was withdrawn on the first day of the inquiry when a Compromise Agreement between the parties was entered into.¹⁹

OBJ 4 – The Burrows Family, Focus Plumbing and Mechanical Services Ltd²⁰ Plots 87, 88, 89 & 90 Objections to CPO and SUO - WITHDRAWN

¹⁶ CD33

¹⁷ CD23

¹⁸ CD27

¹⁹ ID21

²⁰ CD32 & CD42

35. The location of the proposed Transport Interchange does not accord with the Area Action Plan, taking up land allocated for mixed commercial uses. It also represents a significant departure from the Town Centre Regeneration Masterplan developed as part of the Council's 365 Vision. The absence of the foodstore formerly envisaged will inhibit comprehensive regeneration. The AA has no reason to include the land for the Transport Interchange in the Order as it occupies a defined and discrete area and could be acquired by Nexus using its powers under the Transport Act. It is unclear how and when funding for the Transport Interchange will be guaranteed and there is on-going uncertainty as to the contractual relations between AA and Nexus in respect of its delivery. The SUO is premature and should not be considered until the CPO has been confirmed and the planning permissions are capable of implementation.
36. Following further clarification and entering into an agreement with the Council, the objections to both Orders were withdrawn.²¹

OBJ 5 – Boots UK Ltd²²
Plots 7, 8, 11 and 99
Objections to CPO and SUO

37. The Objector does not object in principle to The Scheme but is dependent upon access to, and use of, the service yard (Plot 99) in conjunction with its existing business at 61 King Street. The Order should not be confirmed until terms for the granting of replacement rights over an equivalent servicing facility have been agreed. There are also concerns regarding potential adverse effects during The Scheme works.
38. The SUO includes highways which comprise part of the existing vehicular access route for service vehicles. Highway improvements include the formation of a public realm square which will separate the service yard from the local road network which could result in conflict between vehicles and pedestrians. Any restriction on access and servicing could have a significant adverse effect on the Objector's business. The SUO is premature and should not be considered until such time as the Council has obtained and can exercise confirmed CPO powers.
39. A letter sent on the day the inquiry opened indicated negotiations were progressing to either exclude the Plots from the Order or to obtain an undertaking that the AA would not exercise its powers of compulsory acquisition in respect of them. Until the detailed terms are agreed and the Compromise Agreement completed, the Objections remain.²³

OBJ 6 – Retail Plus General Partner Ltd & Retail Plus Nominee Ltd²⁴
Plots 8, 11 & 99
Objections to CPO and SUO

40. The Objection is made in respect of the loss of the current access to the Objectors' property with uncertainty of re-provision; and the potential impact on servicing, refuse storage and collection and fire escape. The Objector supports

²¹ ID5

²² CD26 & CD38

²³ ID20

²⁴ CD28 & CD39

and welcomes the objective of enhancing retail provision within the Town Centre but this should not entail any adverse effect on existing retailers. The proposed access for servicing is very different and no swept path or similar analysis has been provided to demonstrate feasibility and functionality. The potential impact in terms of access and servicing is significant. A formally documented agreement is needed to ensure on-going servicing and access at all times. The Order covers areas of highway included in two separate redevelopment schemes but does not address any possibility of what might result if only one scheme is eventually developed out.

41. A letter received the day before the inquiry opened confirmed that an Agreement between the parties was expected to be executed within the week, following which the Objections would be withdrawn.²⁵

OBJ 7 – The Post Office Ltd²⁶

Plot 76

Objections to CPO and SUO - WITHDRAWN

42. Whilst noting that The Scheme appears to conflict with the Area Action Plan in that the new Transport Interchange encroaches onto sites allocated for mixed commercial residential and leisure uses, the Post Office has no objection to the overall principles of The Scheme and regeneration of the area. However, it is essential that the relocation of the Post Office should be secured and effected prior to the implementation of the CPO so that there is no loss of service.
43. The SUO would render the Post Office completely inaccessible to customers and would hamper servicing. It would in itself effectively result in the loss of the Post Office. Whilst it is appreciated that the Order is related to the implementation of the two planning permissions granted, the land has yet to be acquired and the CPO to be confirmed. No reference is made to timing or phasing and what would happen if the Order was confirmed but only one Scheme was brought forward has not been addressed.
44. The Post Office subsequently confirmed that its grounds for objection had been addressed and both Objections were withdrawn.²⁷

OBJ 8 - Royal Mail Group Ltd and Royal Mail Estates Ltd²⁸

Plots 76, 77 & 78

Objection to CPO only - WITHDRAWN

45. Royal Mail does not object to the principle of the Order or redevelopment but The Scheme would adversely affect the delivery of its duties, powers and operations. Its support is conditional on appropriate and acceptable alternative arrangements and safeguards being put in place to protect its operations and the Order should not be confirmed until they are secured by an agreement. Further, to demonstrate a compelling case, evidence should be provided to demonstrate the availability of sufficient funds to acquire the land, to carry out The Scheme and to relocate the Royal Mail Delivery Office.

²⁵ ID8

²⁶ CD31 and CD41

²⁷ ID4

²⁸ CD30

46. The objection was withdrawn when the Objector entered into a mutually acceptable agreement with the Promoter.²⁹

OBJ 9 – DWP and Telereal Trillium³⁰

Plot 30

Objections to CPO and SUO

47. There is no objection in principle to the proposed Scheme underlying the CPO but there is concern at the potential adverse impact on the continued operation of the Job Centre facility. The Council's assertion that the presence of Crown Land is not considered an impediment to the implementation of The Scheme is not a fair representation of the position as there is uncertainty as to whether the Job Centre will be able to relocate. Until a relocation position for the Job Centre can be provided the Objectors' interests cannot be acquired and thus there is a clear impediment to the delivery of The Scheme and consequently no justification for confirming the Order.

48. The SUO would render the Objectors' property substantially inaccessible to vehicles and the new highway would require demolition of the Job Centre. The Order is premature and should not be considered for approval until the Council has obtained and can exercise confirmed CPO powers. Furthermore, as DWP's interest is a Crown interest it can only be acquired by agreement.

49. The DWP has subsequently confirmed that it has no wish to block such an important regeneration project and is committed to working with the AA to find a suitable solution. The sole concern is to ensure that the Job Centre is satisfactorily relocated and can continue to deliver its services to the community. Outline planning permission has been granted for a site which could provide suitable alternative premises at Mile End Road. A draft Collaboration Agreement has been prepared and is being reviewed. Assuming it can be finalised satisfactorily, then the Objections could be withdrawn.³¹

OBJ 10 – Ronsbrook Services Ltd³²

Plot1

Objections to CPO and SUO - WITHDRAWN

50. The Scheme could proceed without the Objector's land; its acquisition has not been demonstrated as essential in the furtherance of public policy or in the public interest; and the development Scheme itself is by no means certain. The existing property provides retail space for a local trader whereas the new unit does not as it is much larger. In any event, a CPO is unnecessary since the owner is prepared to enter into negotiations for rights to be acquired by agreement.

51. The SUO, in providing for the stopping up of East Street, would render vehicular and pedestrian access to the rear of the Objector's property 97-99 King Street unusable. Stopping up should be conditional to occur only on the purchase of the

²⁹ ID3

³⁰ CD29 & CD40

³¹ ID26 & ID27

³² CD35 & CD44

Objector's interest. Otherwise it could be forced to cease to trade prior to any need for the road to be closed.

52. The Objections were subsequently withdrawn by e mail the day before the inquiry opened.³³

**OBJ 11 – Receivers of Landmaster Properties Ltd³⁴
Plots 2, 3, 4 & 5
Objections to CPO and SUO**

53. There has been no reasonable effort made to acquire the Objector's property by agreement despite a willingness to negotiate on the Objector's side. The extent of land required has not been justified as necessary for delivery of The Scheme; there has been no demonstration that neighbouring properties could not be acquired instead to provide a link between King Street and the new development or that such a link is necessary; Scheme viability cannot be justified in its current form; and it has not been shown that there is a reasonable prospect of delivery.

54. Without demonstrating the need for The Scheme to be delivered or the case for the CPO, it follows that the SUO is not required.

55. The day before the inquiry opened the Objector wrote to confirm that discussions had advanced significantly with heads of terms agreed between the parties. The terms of the proposed agreement provide for the Objections to be withdrawn once contracts are exchanged.³⁵

**OBJ 12 – Argos Ltd³⁶
Plot 99
Objections to CPO and SUO**

56. The Objections made are the same as those made by OBJ 5. In addition progression to a negotiated resolution is the same as for OBJ 5.³⁷

**OBJ – Northern Gas Networks³⁸
Objection to SUO only - WITHDRAWN**

57. An Objection was received concerning adequate protection of the Gas Networks' apparatus but this was subsequently withdrawn with the operator confirming that it would rely on its statutory powers in this regard.

THE CASE FOR THE ACQUIRING AUTHORITY

58. In summary, there is a compelling case in the public interest for the confirmation of the CPO, which will lead to the regeneration of South Shields Town Centre, with wider community benefits that will promote and improve the economic, social and environmental well-being of the area. Further, the SUO is needed in order that The Scheme can be implemented.

³³ ID6

³⁴ CD34 & CD43

³⁵ ID7

³⁶ CD25 & 37

³⁷ ID19

³⁸ CD36

The main points are:

Background

South Shields

59. South Shields has a proud industrial history, but has endured a prolonged period of decline. The Town Centre³⁹ has a strong identity but it is faced with a number of significant challenges. It is linear in nature and dominated by King Street. Despite developments such as Waterloo Square, the Town Centre does not have a pedestrian circuit or provide an attractive environment for the visitor. This is further reinforced by the bus routes along Keppel Street and Chapter Row, running parallel to King Street, which effectively sever the town. There is a shortage of modern retail units and many of the buildings are old, poorly maintained and simply do not meet modern retailer requirements.
60. In addition, the Metro station is located at height above King Street and passengers have to descend to street level by stairs⁴⁰ in order to access the heart of the Town Centre. There are bus stands located on Keppel Street which runs parallel to King Street, but these create an unattractive environment. While the station and bus stands give public transport penetration to the retail core, the quality of both is poor and their redevelopment forms a major strand of the regeneration proposals for the Town Centre.
61. The nature of shopping as an activity has changed. It has become a leisure activity with an expectation that a visit to a town or city centre will also include a food and drink transaction in high quality surroundings. This is evidenced in successful centres where there is an element of "theatre" contributing to the visitor experience and that is lacking in South Shields.
62. These factors, coupled with South Shields' restricted coastline catchment area, the existence of easily accessible competition, and national trends such as online shopping, have led to its decline. To address these problems, the Town Centre needs a retail circuit that prioritises pedestrian spaces and movements (while ensuring excellent public transport accessibility), provides modern units of the type that are attractive to potential occupiers in a mix of retail and leisure units, and a high standard of public realm.

Regenerating the town centre

63. The regeneration of South Shields has been a long-held priority for the Council. The character areas of the Riverside and Foreshore have both seen significant investment over the last decade.⁴¹
64. Prior to The Scheme, regeneration in the Town Centre was focused on the redevelopment of Waterloo Square. Together with a new Asda supermarket, it provided much-needed improvement to the Town Centre shopping offer. However, it is severed from the heart of King Street by the existing highway network.

³⁹ E1 section 5

⁴⁰ In the new Interchange, escalators and a lift will connect the station to the rest of the Town Centre

⁴¹ E1 section 6

65. In 2011, following the economic downturn of 2007/8, the Council recognised that if South Shields was going to be a viable and attractive destination for residents and visitors, then the quality of the Town Centre's offer, in terms both of the range of shops and quality of place, had to be improved.
66. The Council recognised the need to articulate its aspirations for the Town Centre and to use this as a platform from which to procure a development partner. The Council therefore commenced work on the South Shields 365 Vision in mid-2012 and the Vision was launched in January 2013.
67. The Vision⁴² set out the economic roles of the Riverside, Foreshore and Town Centre, and highlighted the challenges. It set out in Chapter 4, the opportunities for redeveloping the Town Centre and provided a strategic master plan which identified various sites for development. This included the Market Place, King Street, Metro Station, the areas round Barrington Street and St Hilda's Church as well as other sites. The Masterplan was not a prescriptive template but rather provided a starting point and guide which mapped out the sites and highlighted their relationship to each other.
68. The Vision built on existing Town Centre planning policy contained in the Development Plan⁴³ and provided an up-to-date and market led approach to the regeneration of the Town Centre in line with government guidance in the National Planning Policy Framework (NPPF), which seeks to promote competitive town centres that provide customer choice and diverse retail offer. Moreover, the Vision further complied with national guidance insofar as it seeks to retain and enhance existing markets and where appropriate create new ones. In this regard, the Vision seeks to build on the existing Town Centre offer through investing in the town's infrastructure (including the Market Place) while introducing an expanded and improved retail offer to enhance and grow the visitor experience.
69. The Vision was a response to a clear problem and provided a further layer of detail on land use proposals that were already in the public domain through the adopted Development Plan. It was not adopted as formal Council policy in its own right as it was considered to conform to the relevant planning policies which control development in the Town Centre. However, it was presented at various meetings and was positively received. There was a general acceptance that "something had to be done" about the Town Centre and that the Council was being proactive in promoting the town in securing investment. As such, there were no objections to the Vision from local residents or businesses.
70. From September 2012, the Council undertook an OJEU compliant procurement process⁴⁴ to identify a development partner for the Town Centre development proposed in the Vision. Muse was successful, and in November 2013 signed a Development Agreement and associated agreements with the Council. Since its appointment, the Council and Muse have collaborated on various key elements of

⁴² CD58

⁴³ The Development plan for the area includes the LDF Core Strategy (2007), the South Shields Town Centre and Waterfront Area Action Plan (2008) and the LDF Development Management Policies (2011)

⁴⁴ E1 section 7

the Town Centre's regeneration⁴⁵. The first was the design and construction of the Market Place, which was completed as part of the first phase of regeneration in March 2016.⁴⁶ This included a complete refurbishment of the Market Place and installing an iconic canopy structure on the northern side of the market. The construction of the National Centre for the Written Word (The Word) has also been completed (October 2016). Facing onto both the Market Place and Harton Quays Park, this is a national cultural institution.

71. The Order Scheme is the next and crucial stage in the Town Centre's regeneration.

The Scheme

72. The two elements of The Scheme insofar as the CPI is concerned, the Transport Interchange and Masterplan, are both of great importance to the future of the Town Centre.

Transport Interchange

73. The Transport Interchange has been designed to meet the requirements of Nexus, who operate and manage the bus and rail infrastructure in South Tyneside and the main bus operators.
74. The new Interchange will provide a modern public transport hub, integrating both bus and Metro public transport facilities, providing ease of access into and out of the Town Centre and ease of connection from bus services to Metro services and vice versa. The new building will provide a landmark piece of architecture, giving a positive sense of arrival into the town.

The Masterplan Development

75. The Masterplan Development will facilitate an enhanced retail and leisure offer with the provision of modern retail floorspace and much lacking town centre leisure uses centred on a new cinema. The realignment and closure of roads will increase connectivity and enhance pedestrian routes between different sections of the Town Centre and provide a significantly improved, pleasant environment free of general traffic and with generous public spaces. Waterloo Square, with its quality retailers, will become better integrated with the rest of the Town Centre, and better linkages would be created towards the refurbished Market Place, The Word and the ferry landing.
76. The new Barrington Square, will allow retained attractive buildings⁴⁷ to become a key part of the Town Centre environment, refurbished and brought back into use as bars or restaurants, providing a central focus to the new square.
77. The Development will create an attractive pedestrian environment for the visitor.

Overall

78. Together, the Masterplan Development and the Transport Interchange Development will transform the Town Centre. A retail and leisure offer will be

⁴⁵ E1 section 8

⁴⁶ E10, appendices 6 & 7

⁴⁷ 16 & 18 Barrington Street

provided which meets both resident and visitor expectations. Further, the proposed development will deliver much-needed new infrastructure in the form of the new Transport Interchange and improvements to the public realm which will enhance the visitor experience.

The CPO

79. The Council has taken great care in considering whether to use compulsory acquisition powers. It considered the issue on 2 July 2014, 25 March 2015 and 23 March 2016, on which date it resolved to make the Order now before the Secretary of State. On 12 May 2016 the Council made the Order, under section 226 (1) (a) of the 1990 Act: *"for the purpose of carrying out development, redevelopment and/or improvement on or in relation to the land, comprising a new integrated transport interchange, retail and leisure development, and associated works including highway works, car parking, public realm improvements and landscaping in South Shields Town Centre."*

Assessment of the case for confirmation of the Compulsory Purchase Order against Government policy

Whether the purposes for which the land is being acquired fit in with the adopted Local Plan for the area and the NPPF (paragraph 76 of the Guidance)

80. The purposes of the Order are supported in the development plan. The Scheme is entirely supported by the Core Strategy⁴⁸, in particular policies SC2, which seeks the revival of South Shields Town Centre, ST1 which supports development that reflects the scale and functions of South Shields, and A1, which supports public transport, walking and cycling initiatives that maximise the accessibility of new development focused at regeneration areas including South Shields.
81. The Scheme also accords with the objectives of the South Shields Town Centre and Waterfront Area Action Plan (AAP⁴⁹), which in policy SS1 seeks to strengthen, revive and promote the growth of South Shields Town Centre as the Borough's principal centre for shopping, entertainment and leisure, culture and administration, making it a popular and attractive market town. The Scheme also accords with policy SS3 of the AAP, which seeks to improve the physical accessibility of the Town Centre.
82. The particular form of development proposed in The Scheme departs in certain respects from the detailed allocations in policy SS2 of the AAP. The divergences have arisen because of changes of circumstance since the AAP was adopted in 2008.⁵⁰ They do not alter the fact that when the development plan is examined as a whole, as it must be, the Order Scheme complies with it.
83. There are three areas of conflict with details of the allocations in SS2.
84. *To begin with*, the Masterplan proposes a cinema (D2) and restaurants (A3) as well as A1 uses within the area of SS2 (A)(vi), which is allocated for A1 and A2 uses. The D2 and A3 uses are not in accordance with SS2 (A)(vi). However, they are town centre uses and conform with policy in the NPPF as well as general

⁴⁸ CD55

⁴⁹ CD56

⁵⁰ E4 5.11-5.24

- Development Plan policies for the Town Centre. Further, the D2 and A3 uses provide a comprehensive leisure offer in one highly appropriate location, and there is insufficient capacity in other AAP site allocations to accommodate those uses. Finally and in any event, no planning harm arises. A1 use is provided, in accordance with the allocation, A2 is not. However, there is no evidence that there is any need for provision of A2 in the area of SS2 (A)(vi). Indeed, The Scheme can deliver new A2 floor space, because in response to the Objection raised in relation to this matter, planning permission has now been granted for use of the retail units at the Transport Interchange for A2 purposes.⁵¹
85. *Secondly*, the site of the multi-storey car park is allocated within SS2 (A)(iv) for class A1 and D2 purposes. However, the A1 allocation was to accommodate an Asda store, which has now been developed elsewhere. Also, the D2 allocation was based on a previous permission for a swimming pool and leisure proposal. However, funding bids for the pool were unsuccessful, and since adoption of the AAP, a new public swimming pool has been completed at the South Shields Foreshore. Accordingly, the retention of the allocation for A1 and D2 purposes is not required. Finally, it is appropriate to provide the new car parking, for the reasons given.⁵²
86. *Thirdly*, most of the area of the new Transport Interchange is allocated within AAP policy SS2 A)(iii) as a mixed use allocation for A1 and A2, B1 and B2, C3 and D2 uses. The A1/A2/B1 units at the Interchange (building 13 on the Masterplan) accord with the allocation. A Transport Interchange does not, but its provision is highly sustainable and conforms with Core Strategy and AAP policy to improve transport and accessibility within the Town Centre.⁵³ Further, the uncontested evidence is that the chosen location for the Interchange is the only appropriate site.
87. In the circumstances, therefore, the divergences from the AAP should not count against confirmation of the Order. They arise because the AAP is in relation to these particular allocations out of date. Further, examined overall, The Scheme complies with the Development Plan.
88. Furthermore, The Scheme is wholly compliant with the policies of the NPPF. The NPPF places a duty on local planning authorities to plan positively to help sustain the commercial strength of town centres, encouraging economic activity particularly in those town centres such as South Shields that have shown signs of decline. The Scheme represents an opportunity for transformational change and proposes a holistic development that will establish the infrastructure and development needed for a successful and dynamic modern town centre. As such, it clearly fulfils the primary objective of the NPPF to promote sustainable development.
89. In summary, the purposes of the Order, as expressed in the Order Scheme, do indeed comply with the Local Plan and with the NPPF.

⁵¹ CD52

⁵² E4 5.19 and 5.20

⁵³ E4 5.24

The extent to which the proposed purposes will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area (paragraph 76 of the Guidance);

90. The proposed development will make a very significant contribution to the economic, social and environmental well-being of the area.⁵⁴
91. So far as *economic* well-being is concerned, The Scheme will provide a step change, reversing the decline of the Town Centre by making it vital and economically viable and better able to meet the retail and leisure needs of local residents and visitors. The enhanced retail and leisure facilities, providing modern retail units and new restaurant and leisure uses, will enable residents to meet more of their needs locally and reduce the need to travel to centres further afield. The increased footfall and customer spend within the Town Centre will have significant positive knock-on effects on existing businesses in the area, as well as attracting new business and new investor confidence.
92. The regeneration brought about by The Scheme will act as a catalyst for wider regeneration in the Town Centre, as well as elsewhere in South Shields, including the establishment of a connection between the Town Centre and the Foreshore.
93. Also, The Scheme will provide new jobs during construction and many more jobs once it is built and trading, and contribute substantial additional business rates.
94. Further, The Scheme will make a substantial contribution to the *social* well-being of the area. By the provision of new retail and leisure uses and the Interchange, all in well-designed new buildings, it will create a vibrant and inclusive Town Centre which will be a place of all-year-round cultural, leisure and retail activity. By providing improved public transport facilities, The Scheme will facilitate ease of access into and out of the Town Centre. The Scheme will also improve pedestrian connectivity and flow, and increase personal safety for pedestrians in the central area. It will provide better car parking facilities by the delivery of a new multi-storey car park. Overall, the Town Centre should be the focus of activity for the people of South Tyneside, and The Scheme will make the Town Centre a place to be proud of.
95. Finally, The Scheme will contribute importantly to the *environmental* well-being of the area. The proposed development will deliver a high quality built environment, enhancement of existing public realm and new public realm in the form of public squares, better connections within the Town Centre and beyond to the Foreshore and Riverside, and improvements to the setting of listed buildings and other heritage assets.
96. In summary, the whole development will contribute to the achievement of the promotion and improvement of the economic social and environmental well-being of the area. Accordingly, section 226 (1A) of the 1990 Act is amply satisfied.

Whether the purposes for which the Council is proposing to acquire the land could be achieved by any other means (paragraph 76 of the Guidance)

97. The purposes of the Order could not be achieved by other means.⁵⁵ It is plain that the Town Centre needs comprehensive regeneration. Ad hoc improvements

⁵⁴ E4 section 8

would not achieve the policy objectives. Further, public sector involvement is necessary in order to secure the comprehensive regeneration that is needed. The private sector alone could not assemble a site of sufficient critical mass to support a comprehensive scheme or take on the commercial risk of such a substantial development.

98. Further, the whole of the Order Land is needed for the development. The Council's case is that all the interests included in the Order are required so that The Scheme may proceed.
99. Piecemeal development of The Scheme would not be possible, because it is by its nature a comprehensive and integrated whole. In particular, for reasons given both the Masterplan and Transport Interchange Developments are necessary.⁵⁶ The Interchange is a gateway into the town and is central to supporting The Scheme's objective of growing the Town Centre's evening economy through a new cinema and family restaurants. However, it is not enough on its own. The Masterplan Development is necessary to transform the Town Centre's offer.
100. It is significant that no objector has suggested any alternative proposals which would meet the exacting policy objectives and commercial requirements The Scheme has been designed to address.
101. In summary, therefore, it is clear that the purposes for which the Order Land is to be acquired could not reasonably be achieved by other means.

Whether there are likely to be any impediments to The Scheme going ahead (paragraphs 13-15 of the Guidance)

102. There is every prospect that The Scheme will proceed and there are no impediments to it going ahead.
103. The development will be delivered by Muse, a wholly owned subsidiary of Morgan Sindall Group PLC, which is a FTSE 250 listed company⁵⁷. Muse has extensive experience of delivering schemes similar in nature to the Order Scheme, including projects in Blackpool and Durham.⁵⁸
104. Muse is obliged under the Development Agreement⁵⁹ to deliver both the Transport Interchange and Masterplan developments on satisfaction of conditions relating to planning, site assembly, funding and viability. Planning permission has been granted for both. Also, a draft Stopping Up Order is before the inquiry, which will secure the necessary road closures. Site assembly is assured if the Order is confirmed.
105. Turning to funding and viability, the Council is responsible for land acquisition for The Scheme, the cost of improvements to the public realm, highways and utilities, part of the construction costs of the Transport Interchange, the cost of construction of the multi-storey car park, and legal and professional costs.⁶⁰ The

⁵⁵ E1 section 13

⁵⁶ E1 section 13.7 onwards

⁵⁷ E8 section 3

⁵⁸ E8 paragraph 3.4

⁵⁹ E8 section 7

⁶⁰ E1 section 10

- total cost to the Council is assessed at £55m,⁶¹ and it has been demonstrated that the necessary funds will be available. Contingency allowances are built into the costs and even if final costs exceeded the present figures, the Council has reserves from which it could make up any deficit.⁶²
106. Nexus will be partly responsible for the costs of construction of the Transport Interchange and delivery of that project will be secured through a partnership agreement with the Council.⁶³ Nexus has shown that it has the necessary funds available.
107. Muse is responsible for the construction of the Masterplan Development, at an estimated cost of £25m and is confident that both funding and viability conditions will be met, so that the development can proceed.⁶⁴ The principle of funding has already been agreed by the boards of Muse and Morgan Sindall Group, in the knowledge of that cost.⁶⁵
108. The viability condition will be satisfied when an appraisal is produced which demonstrates there is sufficient surplus to meet the specified return and that a level of pre-let income has been achieved.
109. There is every reason for confidence that the viability condition will be met, given the likely demand for floor space within The Scheme⁶⁶. Occupiers will be attracted because the Scheme will put right many of the matters which have led to poor demand in the past.⁶⁷ The level of interest from cinema operators, restaurant operators and retailers (including anchors) even at this early stage suggests strongly that floorspace within The Scheme will let well.
110. One would not expect in any retail scheme to have secured pre-lets at this stage but research has shown a substantial level of interest; indeed from more cinema operators and anchor retailers than could be accommodated.⁶⁸ The fact that interest was being expressed by more potential operators than could occupy The Scheme is a strong indication of its attraction to the market, and suggests that there would be competition for floorspace, which can only benefit the developer and assist viability.
111. The final matter which it is necessary to consider in relation to impediments to delivery is the position of the Post Office, DWP, and Royal Mail. The Post Office and DWP are Crown interests, and Royal Mail a statutory undertaker. The Order does not include the Crown interests of the Post Office and DWP. Further, in relation to Royal Mail, the Council has agreed⁶⁹ not to exercise its powers under the Order against Royal Mail's interest in Keppel Street.

⁶¹ The details are at E1 section 10. The £55m includes a contribution of £3.5m the Council could make to the delivery of the Masterplan development should that be necessary

⁶² And see E7 5.18

⁶³ E14 section 9

⁶⁴ E8 7.11-7.14

⁶⁵ E8 7.12.3

⁶⁶ E11 section 5

⁶⁷ E11 5.6

⁶⁸ E11 5.19; E11 5.35-Matalan, TK Max, H&M; ID29, para.71

⁶⁹ ID10

112. However, these three interests do not comprise an impediment to delivery of The Scheme. The Council has found alternative sites for each:
- a) The Post Office (8 King Street); no planning permission is needed for the Post Office's use of those premises.
 - b) The Royal Mail depot (West Walpole Street); planning permission has been granted for Royal Mail's use.⁷⁰
 - c) The Job Centre (Mile End Road); planning permission has been granted for DWP's use of those premises.⁷¹
113. The Post Office has taken a lease of the premises at 8 King Street,⁷² and the Council owns the West Walpole Street and Mile End Road premises.
114. The Post Office has withdrawn its objection,⁷³ and has entered into an agreement with the Council⁷⁴ which provides for its relocation to 8 King Street and transfer of its existing premises to the Council.
115. Similarly, Royal Mail has withdrawn its objection,⁷⁵ and has itself entered into an agreement with the Council.⁷⁶ That agreement, again, provides for Royal Mail to relocate to the new premises and transfer its existing premises to the Council.
116. DWP has not withdrawn its objection yet, but has indicated that it accepts the suitability of the site at Mile End Road, and is prepared to complete a collaboration agreement with the Council which will provide for its relocation and transfer of its existing site to the Council.⁷⁷
117. Thus these three interests are not impediments to delivery. In each case alternative premises have been identified, and the holder of the relevant interest is prepared to move there, and to transfer its existing site to the Council.
118. Overall, therefore, there is every reason for confidence that once the Order before this inquiry is confirmed, the development will proceed.

Whether confirmation of the Order would be in accordance with the Council's duties under the Equalities Act 2010 (paragraph 6 of the Guidance)

119. The AA has considered the impact on human rights of those affected by the Order. In particular it has had regard to the rights to the peaceful enjoyment of possessions (Article 1, First Protocol). Any interference with Article 1, or any other Convention rights, is justified and proportionate in the wider interest so as to secure the economic, social, physical and environmental regeneration of the Town Centre.
120. Furthermore, the requirements of Article 6 are satisfied. Any person with an interest in land included in the Order has had the opportunity to make a

⁷⁰ CD50

⁷¹ CD51

⁷² ID9, paragraph 2.1,

⁷³ ID4

⁷⁴ Summarised at ID9

⁷⁵ ID3

⁷⁶ Summarised at ID10

⁷⁷ ID26 & ID27

representation or objection and to appear at the public inquiry, before the Secretary of State decides whether to confirm the Order.

121. So far as Equalities are concerned,⁷⁸ a full equality and diversity assessment has been carried out⁷⁹ to ensure that in proceeding with The Scheme the AA is complying with its statutory duty under section 149 of the Equality Act 2010. That assessment will be monitored and reviewed throughout the implementation of the Order to ensure that any impact can be measured and mitigated as necessary. An equality check was also conducted when Muse was being considered as developer. Finally, the acquisition strategy for the Order was tailored to minimise barriers to equal opportunities for those with disabilities.

Whether reasonable steps have been taken to acquire the land and rights by agreement (paragraph 2 of the Guidance)

122. Sanderson Weatherall, on behalf of the AA, has followed an active acquisition programme since 2013. Since then, a substantial number of interests have been acquired.⁸⁰ Every effort has been made to acquire the remaining interests by negotiation, and full details of this are given in relation to each objector.⁸¹ The fact that Objectors have either withdrawn their Objections or indicated that they have reached in principle agreement with the Council is ample testament to the efforts made to negotiate with them.

123. Every reasonable effort has been made to acquire the relevant interests by agreement, such that compulsory acquisition is relied on in this case as a last resort.

Whether there is overall a compelling case in the public interest for confirmation of the Order (paragraph 12 of the Guidance)

124. In summary there is a compelling case in the public interest that the Order Land should be compulsorily acquired in order to achieve the purposes set out, and this outweighs any interference with the private interests held in the Order Land. The use of compulsory purchase powers to achieve the Development Plan's objectives for South Shields is proportionate to the interference with human rights in the light of the statutory compensation available.

Stopping Up Order

125. The application for the SUO has been submitted pursuant to section 247 of the 1990 Act. The SUO is necessary to enable The Scheme to be carried out.

Objectors

126. A substantial number of Objections have been withdrawn:
Royal Mail⁸²
Post Office⁸³
Burrows Family⁸⁴

⁷⁸ E4 section 7

⁷⁹ CD64

⁸⁰ E22 section 9

⁸¹ E22 & E24 updated by ID2 & ID23

⁸² ID3

⁸³ ID4

Ronsbrook⁸⁵
Sports Direct⁸⁶
Northern Powergrid⁸⁷
Network Rail⁸⁸

127. In the case of other Objectors, agreement in principle has been reached with the Council and the Objectors have expressed the intention to withdraw on settlement of detailed terms:

Landmaster Properties Ltd⁸⁹
Retail Plus⁹⁰
Argos⁹¹
Boots⁹²
DWP⁹³

128. It is significant that the inquiry has heard no evidence from Objectors. Only the Post Office and Royal Mail submitted evidence to the inquiry, and that evidence has been withdrawn with the Objections. The only party affected which maintains an Objection and which has not indicated that there is nothing of principle between it and the Council is SLA Property Co Ltd and PGS Law Ltd which did not submit evidence and did not appear at the inquiry.

129. These matters strongly point to the lack of any cogent basis for objection to The Scheme, to the Order and to the SUO.

130. Most of the issues raised by the Objectors have been covered in the preceding sections, including matters raised in Objections withdrawn:

- Delivery (PGS, Royal Mail, Burrows, Landmaster)
- Adequacy of negotiations (Sports Direct, Landmaster, Ronsbrook)
- Conflict with local planning policy (Post Office, Burrows)
- Lack of need for an objector's land (Landmaster, Ronsbrook)
- Servicing and access (Sports Direct, Retail Plus, Argos, Boots)

131. The following paragraphs deal with certain particular points arising from objections:

- The objection of PGS;
- The objection of DWP;
- Whether the statutory powers available to Nexus should have been used to acquire the land for the Transport Interchange.

132. **PGS** is the only remaining objector in principle. PGS objects on two grounds:

- Lack of A2 floorspace within The Scheme; and
-

⁸⁴ Document ID5

⁸⁵ Document ID6

⁸⁶ Document ID21

⁸⁷ Document 24

⁸⁸ Document 23

⁸⁹ Document ID7

⁹⁰ Document ID8

⁹¹ Document ID19

⁹² Document ID20

⁹³ Documents ID26 & 27

- Concerns about delivery
133. So far as A2 floor space is concerned, PGS's case as expressed in its objection was essentially that no provision had been made for its own use within The Scheme. In the light of that objection, planning permission was obtained for use of the whole of building 13 on the Masterplan to be used for A2 purposes.⁹⁴ The AA is willing to allow PGS to occupy as much of building 13 as it wishes. PGS's current premises comprise 586 sq m NIA in two separate buildings on four floors. Building 13 would provide 571 sq m NIA on two floors, or 872 sq m on three floors. However, it has not been possible to reach a negotiated settlement. PGS produced no evidence of any more general need (ie beyond its own requirements) to provide for A2 within The Scheme.
134. PGS's concerns about delivery are wholly unfounded. Its objections pre-date the Council's Statement of Case and evidence. The submitted evidence demonstrates that there is no impediment to delivery of The Scheme. PGS suggested that the absence of a food superstore could be fatal to delivery of The Scheme. The evidence has set out in detail how the costs of The Scheme will be met, and that a superstore is not essential to viability.
135. In relation to **DWP**, there is no in principle dispute between DWP and the Council. DWP supports the aim of regeneration of the Town Centre, and is prepared to work towards relocation to the Council's site in Mile End Road. Moreover, even if no agreement were reached about relocation, DWP's objection is unnecessary because, as a Crown interest, the Order does not apply to its land. In relation to the concern expressed that the SUO would hinder access; it cannot be implemented until the new highways have been provided and part runs through DWP's land which cannot be taken compulsorily. So DWP has nothing to fear from either the Order or the SUO.
136. The final point was made by Burrows (in the withdrawn objection) about the **statutory powers available to Nexus**. Firstly, compulsory purchase of land for the Interchange is necessary if there are unknown interests in it. Secondly, it is wholly appropriate that the compulsory purchase should be by the Council, using its own compulsory powers, rather than Nexus using its powers as the whole is seen as one comprehensive Scheme. The Council's evidence⁹⁵ makes plain that it wishes to ensure that both the Masterplan Development and the Transport Interchange are delivered. Both are necessary for the regeneration of the Town Centre and there is no reason why both should not come forward. In circumstances where a transport development is part of an overall scheme of regeneration, it cannot be wrong for the local planning authority to use powers under the 1990 Act.⁹⁶ Nexus agrees. This ground of objection is without foundation.

Conclusion

137. In conclusion, there is a compelling case in the public interest for the confirmation of the Order and the making of the SUO. The Order should be confirmed and the SUO made as soon as possible, so that this important

⁹⁴ CD52

⁹⁵ E1 13.6 onwards

⁹⁶ E14 10.10

regenerative development can take place, to the great benefit of South Shields Town Centre and the area as a whole.

INSPECTOR'S CONCLUSIONS

[Numbers in square brackets [n] denote source paragraphs]

Introduction

138. The Acquiring Authority (AA), the Council of the Borough of South Tyneside seeks confirmation of a Compulsory Purchase Order (CPO) made under section 226(1)(a) of the Town and Country Planning Act 1990. It would facilitate the implementation of two planning permissions for a new Transport Interchange and a Masterplan Development in South Shields Town Centre (The Scheme). The purposes being to provide for the comprehensive enhancement of the retail and leisure offer in the Town Centre, integrating and improving its public transport facilities, improving pedestrian flow, and improving the urban fabric of the Town Centre.
139. A Stopping Up Order (SUO) is also sought under s247 of the Town and Country Planning Act 1990 to enable The Scheme, which involves substantial reorganisation and improvements to the highway network, to be carried out.
140. All Statutory formalities have been complied with.[2]
141. Modifications to the CPO are requested arising from a revised highway arrangement to address the concerns of users of an existing service yard and to make two minor corrections. [4, 5, 33, 37, 38, 40, 56]
142. A request is also made to modify the SUO so as to enable the stopping up of the highways in two separate phases if required. [6]
143. At the close of the inquiry, 6 Objectors remained, 5 of which object to both Orders and one of which objects to the CPO only. There were no additional non-qualifying objections. Nobody, other than representatives for the AA appeared at the inquiry.[3, 7-10]

Matters for Consideration (CPO)

144. Government Guidance⁹⁷ advises that a CPO should only be made when there is a compelling case in the public interest to do so. Considerations to be taken into account so as to reach a conclusion in relation to that matter are as follows:
- Whether the purpose for which the land is being acquired fits in with the adopted Local Plan for the area (Paragraph 76)
 - The extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area (paragraph 76)
 - Whether the purpose for which the AA is proposing to acquire the land could be achieved by other means (paragraph 76)
 - Whether there are likely to be any impediments to The Scheme going ahead including the availability of funding (paragraphs 14 & 15)
 - Whether all reasonable steps have been taken to acquire the land and rights included in the Order by agreement (paragraph 2)

⁹⁷ DCLG Guidance on Compulsory purchase process and The Crichel Down Rules for the disposal of surplus land acquired by, or under threat of, compulsion (2015).

- Whether the purposes for which the CPO is made justify interfering with the human rights of those with an interest in the land affected and whether the Public Sector Equality Duty is complied with.

Local Plan

145. The components of the adopted Development Plan of particular relevance to The Scheme are the LDF Core Strategy (2007), and the South Shields Town Centre and Waterfront Area Action Plan (2008).[68]
146. The purpose for which the land is being acquired fits in with the objective of the Core Strategy to achieve “a better future for South Tyneside’s people”. In particular the spatial strategy set out in policy ST1 supports development which reflects the scale and functions of the three main towns of which South Shields is one. Policy SC2 is focused on reviving the three town centres and other shopping centres and includes the aims of enhancing retail character and function, encouraging retail growth and promoting the evening economy within South Shields. Policy A1 supports public transport, walking and cycling initiatives that maximise the accessibility of new development focussed at regeneration areas which include South Shields. Priority is also to be given to improving accessibility, particularly by encouraging and promoting public transport improvements.[80]
147. The Scheme would play a major role in the regeneration of the Town Centre by enhancing the retail and leisure offer, improving connectivity and pedestrian circulation routes; creating a pleasing attractive environment; and providing a modern, easily accessible, transport hub. It clearly accords with the strategic policies of the Core Strategy.
148. The Area Action Plan which includes the Town Centre develops a more detailed strategy within its policies and site specific land allocations. The Scheme patently accords with that part of the spatial strategy set out in policy SS1 to “strengthen, revive and promote the growth of South Shields town centre as the Borough’s principal centre for shopping, entertainment and leisure, culture and administration, making it a popular and attractive market town”. It would also achieve the aims in policy SS3 of enhancing the physical accessibility of the Town Centre by improving pedestrian connections between the primary shopping areas, with the Metro station, bus stands, Market Place and Ferry Landing as well as vastly improving the transport interchange.[81]
149. The divergences from the Area Action Plan are all concerned with some departures from the site specific land use allocations set out in policy SS2A where a number of key sites were identified and appropriate future uses specified with reference to Use Classes as set out in the Town and Country Planning (Use Classes) Order 1987. The AA has explained in detail why the divergences have arisen. It is not surprising in my view that such specific allocations require adjustment given that circumstances are bound to change over time and it is some 9 years since the Plan was adopted. Previously a new Transport Interchange was not envisaged and the Masterplan Development evolved from the 365 Town Centre Vision (January 2013) which was produced by identifying the challenges faced and aiming to build on existing strengths.[29, 35, 42, 84-86]
150. Although not adopted as part of the Development Plan, the Vision is an important document giving an up-to-date and market led approach to

regenerating the Town Centre in conformity with the overarching policies of the Development Plan. It also accords with the NPPF in recognising the Town Centre as the heart of the community and in pursuing policies to support viability and vitality; and in promoting a competitive town centre that provides customer choice and diverse retail offer. From the Vision, the Masterplan the subject of the planning permission had been developed and all uses proposed are recognised appropriate town centre uses. Moreover a new Transport Interchange is highly sustainable and promotes accessibility to the Town Centre for all.[63-69]

151. Insofar as there is conflict with the Development Plan for the area this is only in relation to specified uses at specified locations in policy SS2 and is unsurprising given the age of the Area Action Plan. Taken as a whole The Scheme can be said to fit in with the adopted Development Plan for the area in that the aims and objectives of the policies focussed on the regeneration of the Town Centre would be achieved albeit with some redistribution of use allocations as set out in policy SS2 made in response to changing circumstances.

Economic, social or environmental well-being of the area

152. The rejuvenation of the Town Centre is patently aimed at promoting and improving the economic, social and environmental well-being of the area. The Town Centre has suffered a decline and suffers from a number of disadvantages including a shortage of modern retail units and a lack of complementary leisure uses, an unattractive and unwelcoming environment contributed to by the lack of a pedestrian circuit and areas severed from one another by roads and traffic. Even though well served by public transport, the bus stands and above ground Metro Station are of poor quality.[59-62]
153. Some improvements have been made by the provision of a large supermarket and a number of newer retail units in Waterloo Square. Moreover a significant enhancement to the town has been achieved in the first phase of regeneration by the refurbishment of the Market Place and the construction of the striking and popular National Centre for the Written Word. With the inviting pedestrian linkage of that area to the ferry landing, some improvements to the economic, social and environmental well-being of the Town Centre already achieved are evident and demonstrate the potential for much more.[13, 70]
154. The Masterplan and Transport Interchange provide a comprehensive package intended to reverse the decline of the Town Centre. The Interchange will facilitate ease of access into and out of the centre in an attractive and welcoming environment. The Masterplan would provide modern units to accommodate enhanced retail and leisure uses in a high quality and easily accessible environment. Overall therefore The Scheme will attract investment in the Town Centre and increase customer spend as residents and visitors would be able to meet more of their needs locally and within an inviting environment aimed at encouraging longer and more leisurely visits.[72-78, 90-96]
155. I concur with the view of the AA that The Scheme will bring about promotion of and improvements to the economic, social and environmental well-being of the Town Centre.

Achieve the purpose by other means?

156. The Scheme by its nature is a comprehensive and unified whole. The Interchange provides the gateway to the Centre with the Masterplan providing for an improved retail and leisure offer whilst, most importantly, integrating currently disconnected areas of the Town Centre by providing an attractive and welcoming pedestrian circuit. Piecemeal development without public sector involvement would not achieve the comprehensive regeneration that is needed.[97-99]
157. No alternative proposal has been suggested by any of the Objectors which would achieve the stated purpose and fulfil the policy objectives of the Development Plan.[100]

Impediments

158. Planning permission has been granted for both developments comprised in The Scheme and an experienced firm, Muse, is contracted to deliver them both. It has already achieved the remodelling of the Market Place and National Centre for the Written Word. Site assembly is assured if the CPO is confirmed and the SUO will enable the associated highway works to be undertaken.[103, 104]
159. Funding the project is spread between the Council, Muse and Nexus (the trading name of the Tyne and Wear Passenger Transport Executive). The evidence to the inquiry was that each body had the necessary funds available with contingencies built in. Moreover the Council indicated that it had reserves from which it could make up any deficit in the event that final costs exceed present figures. Concerns about funding were raised by Objectors prior to the evidence for the inquiry being produced. No evidence has been presented to indicate that the necessary funds would not be available.[30, 35, 45, 105-107]
160. Whilst The Scheme is at too early a stage to be seeking pre-lets, research has shown a substantial level of interest from potential occupiers. This is to be expected where The Scheme directly addresses those negative factors which have led to the decline of the Centre. Early indications are that there could be competition for floorspace which would benefit the developer and confirm viability.[109, 110]
161. The requirement for land occupied by the Post Office and DWP (Crown Land) and the Royal Mail (statutory undertaker) should not present an impediment to The Scheme going ahead as in each case a suitable replacement premises has been identified. The AA expected the outstanding Objection from the DWP to be withdrawn shortly.[111-117, 135]
162. Only one Objector remains who has not indicated that an agreement in principle has been reached: OBJ 1, SLA Property Company Limited and PGS Law Ltd. The primary concern is the loss of the Objector's property and the lack of provision for replacement A2 floorspace within The Scheme. That matter has been redressed and the Objector offered replacement floorspace close to the Transport Interchange. [29-31, 84, 132, 133]
163. No impediments to The Scheme going forward have been identified. Indeed to the contrary there are strong indicators that subject to the confirmation of the CPO and the SUO being made that The Scheme will progress and be successful in transforming the Town Centre.

Steps taken to acquire by agreement

164. An active acquisition programme undertaken since 2013 is documented in detail. A substantial number of interests have been acquired and the efforts made to acquire the remaining by negotiation have been fully set out. The requirement in Government guidance to ensure that all reasonable steps have been taken to acquire the land and rights included in the Order by agreement is demonstrated.[122,123]

Human rights and the Public Sector Equality Duty

165. The successful regeneration of the Town Centre requires a comprehensive approach with an attractive arrival, significant new development and a rearrangement of pedestrian and traffic routes so as to achieve an integrated whole. That necessarily involves interference with private property both in terms of its loss and also where not lost, enjoyment of it whilst The Scheme is progressed. Rights under Article 1 of the First Protocol *Protection of Property* are engaged and it might also be argued that Article 8 of the Convention is also engaged. Both are, however, qualified rights and interference might be justified in the public interest. In this case such interference as is necessary is justified given the pressing need to regenerate the Town Centre so as to promote and improve the economic, social and, in this instance, environmental well-being of the area. The interference is justified and proportionate and so does not amount to a violation of those rights.[119]

166. Furthermore, in providing the opportunity for all with an interest in the land to make representations and to appear at the public inquiry the rights afforded by Article 6 of the Convention are not violated.[120]

167. The AA carried out a full equality assessment identifying persons with relevant protected characteristics, any barriers or potential discrimination and measures to reduce inequality. The statutory duty under s149 of the Equality Act 2010 is complied with.[121]

The Stopping Up Order

168. The highway works are an integral part of The Scheme and certain areas of highway are required to be stopped up. The concerns of a number of Objectors regarding access to the existing service yard (Plot 99) have been overcome. Stopping up will follow the provision of new highways. The Scheme cannot be realised without the SUO being made.[28, 33, 37, 38, 40, 56, 58, 125]

Overall conclusion

169. The Scheme is consistent with the overall policies and objectives of the Development Plan although departing to a degree with dated site specific detail. It would make a substantial contribution to improving the economic, social and environmental well-being of the area. The purpose could not be achieved by other means, there are no identified impediments to it going ahead and the funding has been shown to be available. All reasonable steps have been taken to acquire the land by agreement. Taking all the points together I find a compelling case in the public interest for confirmation of the CPO and for the making of the SUO which is essential to facilitate the development. In those circumstances the interference with human rights is confirmed as proportionate.

RECOMMENDATIONS

170. I recommend that the Council of the Borough of South Tyneside (Barrington Street, Coronation Street, East Street, Keppel Street and King Street) Compulsory Purchase Order 2016 be confirmed with the following modifications:

- Removal of plots 7, 8, 11 and 99.
- Correction of ownership details for plots 2, 3 and 4.
- Removal of plot 46.

as set out in the updated Schedule at Document ID24 and as shown on the revised CPO Order Map at Document ID25.

171. Provided the Council of the Borough of South Tyneside (Barrington Street, Coronation Street, East Street, Keppel Street and King Street) Compulsory Purchase Order 2016 is confirmed, I recommend that the Stopping Up of Highways (North East) (No.) Order 201 be modified to provide for two phases as set out in detail in document ID13 and subsequently be made.

Bridget M Campbell

Inspector

APPEARANCES

FOR THE ACQUIRING AUTHORITY:

Mr T Corner QC	Instructed by Pinsent Masons LLP, 1 Park Row, Leeds LS1 5AB
He called	
Mr J Sparkes	Head of Regeneration
Dr G Mansbridge	Head of Development Services
Mr S Reid	Head of Finance
Mr D Wells	Regional Director, Muse Developments Limited
Mr M Pudney	Director, Pudney Shuttleworth
Ms H Mathews	Head of Corporate Planning, Nexus
Mr S Pickard	Director, JMP Consultants Ltd
Ms E McLoughlin	Partner in the firm of Sanderson Weatherall

LIST OF DOCUMENTS

CORE DOCUMENTS (CD) (2 Volumes)

The CPO and related documents

- 1 The Order
- 2 Order Map
- 3 Statement of Reasons dated 12 May 2016
- 4 Statement of Case dated 9 September 2016
- 5 General Certificate dated 19 May 2016
- 6 General Certificate dated 9 June 2016
- 7 General Certificate dated 16 June 2016
- 8 Protected Assets Certificate dated 19 May 2016
- 9 Ecclesiastical Land Certificate dated 19 May 2016
- 10 Notice of Making to qualifying persons dated 16 May 2016
- 11 Site Notice of Making dated 17 May 2016
- 12 Copy of Notice of Making published in Shields Gazette 17 May 2016
- 13 Copy of Notice of Making published in Shields Gazette 24 May 2016
- 14 Public Inquiry Site Notice dated 28 November 2016 and certificate of posting dated 28 November 2016
- 15 Copy of Public Inquiry Notice published in Shields Gazette 29 November 2016

The Stopping up Order and related documents

- 16 The draft Order
- 17 The draft Order Plan 1 and Plan 2
- 18 Site Notice of draft Order and certificate of posting dated 11 August 2016
- 19 Copy of Notice of draft Order published in Shields Gazette 11 August 2016
- 20 Public Inquiry Site Notice and certificate of posting dated 21 November 2016
- 21 Copy of Public Inquiry Notice published in Shields Gazette 22 November 2016

Inspector's Notes

22 Inspector's Pre-inquiry Note dated 3 November 2016

CPO Objections

- 23 Network Rail and withdrawal letter
- 24 Northern Powergrid and withdrawal email
- 25 Argos Limited
- 26 Boots UK Limited
- 27 SportsDirect.com Retail Limited
- 28 Retail Plus General Partner Limited and Retail Plus Nominee Limited
- 29 Secretary of State for Work and Pensions and Trillium (Prime) Property GP Limited
- 30 Royal Mail Group Limited and Royal Mail Estates Limited
- 31 Post Office Limited
- 32 Graham Burrows, Cynthia Burrows, Jonathan Burrows, Christopher Burrows and Focus Plumbing and Mechanical Services Ltd
- 33 PGS Law LLP and SLA Property Company Limited
- 34 CBRE Limited as receivers of Landmaster Properties Limited, 72 The Moor Sheffield (No1) Limited and 72 The Moor Sheffield (No2) Limited
- 35 Ronsbrook Services Limited

Stopping Up Order Objections

- 36 Northern Gas Networks and withdrawal letter
- 37 Argos Limited
- 38 Boots UK Limited
- 39 Retail Plus General Partner Limited and Retail Plus Nominee Limited
- 40 Secretary of State for Work and Pensions and Trillium (Prime) Property GP Limited
- 41 Post Office Limited
- 42 Graham Burrows, Cynthia Burrows, Jonathan Burrows and Christopher Burrows
- 43 CBRE Limited as receivers of Landmaster Properties Limited, 72 The Moor Sheffield (No1) Limited and 72 The Moor Sheffield (No2) Limited
- 44 Ronsbrook Services Limited

Planning Permissions

- 45 Planning decision notice for the Central Library and Digital Media Centre (reference ST/0649/14/LAA) dated 2 October 2014
- 46 Planning decision notice for the Market Place remodelling (reference ST/0651/14/LAA) dated 2 October 2014 and red line plan
- 47 Planning decision notice for the Transport Interchange Development (reference ST/0660/15/FUL) dated 23 November 2015 and red line plan
- 48 Planning decision notice for the Masterplan Development (reference ST/0664/15/OUT) dated 15 December 2015 and red line plan
- 49 Non-material amendment to the Masterplan Development (reference ST/1082/16/NMA) dated 9 November 2016 and plan referred therein
- 50 Planning decision notice for Royal Mail's proposed new premises at West Walpole Street (reference ST/0656/16/FUL) dated 30 August 2016 and red line plan
- 51 Planning decision notice for DWP's proposed new premises at Mile End Road (reference ST/1038/16/OUT) dated 21 November 2016 and red line plan
- 52 Planning decision notice for PGS' proposed new premises at 3, 5 and 7 Keppel Street (reference ST/0999/16/FUL) dated 21 November 2016

and red line plan

Planning Policy / Guidance & Other Council Documents

- 53 Guidance on Compulsory Purchase (October 2015)
- 54 National Planning Policy Framework (March 2012)
- 55 South Tyneside Council Core Strategy (2007)
- 56 The South Shields Town Centre and Waterfront Area Action Plan (2008)
- 57 South Tyneside Council Development Management Policies Development Plan Document (2011)
- 58 South Shields 365 Town Centre Vision document
- 59 The South Tyneside Retail, Health and Capacity Study (GVA, October 2012)
- 60 The South Tyneside Retail Health and Capacity Study 2006 to 2025 (White Young Green, May 2007)
- 61 Shaping our Financial Future - Medium Term Financial Plan 2016-2021 Council Budget (South Tyneside Council)
- 62 Shaping Our Future, South Tyneside Council Vision 2011-2031
- 63 Shaping Our Future, South Tyneside Council Strategy 2013-2016
- 64 The Council's updated Equality Impact Assessment dated 1 December 2016
- 65 The Council's Equality and Diversity Policy
- 66 The Council's Equality Objectives 2012-16

Statutory Material

- 67 Town and Country Planning Act 1990, section 226
- 68 Town and Country Planning Act 1990, section 247
- 69 Local Government (Miscellaneous Provisions) Act 1976, section 13

EVIDENCE (E)

- E1 Proof of evidence Mr J Sparkes – The Scheme
- E2 Summary evidence Mr J Sparkes
- E3 Appendices Mr J Sparkes
- E4 Proof of evidence Dr G Mansbridge – Planning
- E5 Summary evidence Dr G Mansbridge
- E6 Appendices Dr G Mansbridge
- E7 Proof of evidence Mr S Reid – Council funding
- E8 Proof of evidence Mr D Wells – The Scheme and Muse’s funding
- E9 Summary evidence Mr D Wells
- E10 Appendices Mr D Wells
- E11 Proof of evidence Mr M Pudney – Retail/leisure demand
- E12 Summary evidence Mr M Pudney
- E13 Appendices Mr M Pudney
- E14 Proof of evidence Ms H Mathews – Transport Interchange – need and funding
- E15 Summary evidence Ms H Mathews
- E16 Appendices Ms H Mathews
- E17 Proof of evidence Mr S Pickard – Highways CPO
- E18 Summary evidence Mr S Pickard
- E19 Proof of evidence Mr S Pickard – Highways SUO
- E20 Summary evidence Mr S Pickard
- E21 Appendices Mr S Pickard
- E22 Proof of evidence Ms E McLoughlin – Negotiations and acquisition
- E23 Summary evidence Ms E McLoughlin

E24 Appendices Ms E McLoughlin

DOCUMENTS submitted at the Inquiry (ID)

- ID1 Updated summary of statement of evidence of Ms McLoughlin
12 December 2016
- ID2 Updated appendices to statement of evidence of Ms McLoughlin
12 December 2016
- ID3 Letter dated 12 December 2016 from DAC Beachcroft withdrawing
objection by Royal Mail to the CPO
- ID4 Letter dated 12 December 2016 from Bond Dickinson withdrawing
objections by the Post Office to the CPO and SUO
- ID5 Letter dated 12 December 2016 from Bond Dickinson withdrawing
objections by the Burrows Family to the CPO and SUO
- ID6 E mail dated 12 December 2016 from Dunlop Heywood
withdrawing objections by Ronsbrook Services Limited to the CPO
and SUO
- ID7 Letter dated 12 December 2016 from CBRE with update on
objection by Landmaster Properties Limited to the CPO and SUO
- ID8 Letter dated 12 December 2016 from Bond Dickinson with update
on objection by Retail Plus to the CPO and SUO
- ID9 Post Office Development Agreement: Summary of Key Terms
- ID10 Summary of Development Agreement with Royal Mail
- ID11 Interchange Collaboration Agreement: Key Terms
- ID12 Requested modifications to the CPO – version 1
- ID13 Requested modifications to the SUO
- ID14 Provisional route for site visit
- ID15 365 Masterplan for South Shields
- ID16 Opening submissions for the Acquiring Authority and Promoter
- ID17 Requested modifications to the CPO – version 2
- ID18 Town Centre & Waterfront Area Action Plan – proposals map
- ID19 Letter dated 13 December 2016 from Shoosmiths LLP with update
on objection by Argos Limited to the CPO and SUO
- ID20 Letter dated 13 December 2016 from Shoosmiths LLP with update
on objection by Boots UK Limited to the CPO and SUO
- ID21 Letter dated 13 December 2016 from Russell-Cooke LLP
withdrawing objection by Sportsdirect.com Retail Limited to the
CPO
- ID22 Street map of town centre
- ID23 Updated summary of statement of evidence of Ms McLoughlin
14 December 2016
- ID24 Updated Schedule to accompany the CPO incorporating the
modifications proposed in Document 17 above
- ID25 Compulsory Purchase Order Map as proposed to be modified
- ID26 Letter dated 17 November 2016 from the Department of Work &
Pensions concerning its objections to the CPO and SUO
- ID27 E Mail 13/14 December clarifying the Department of Work and
Pensions position.
- ID28 Closing submissions for the Acquiring Authority and Promoter with
tracked changes
- ID29 Closing submissions for the Acquiring Authority and Promoter