

DONCASTER CITY COUNCIL Acquiring Authority

-and-

TASKMASTER RESOURCES LIMITED Interest
Owner

**Objections to the Doncaster (City Gateway – Railway Square and Phase 1)
Compulsory Purchase Order**

Town and Country Planning Act 1990

Acquisitions of Land Act 1981

Introduction

1. The Doncaster (City Gateway – Railway Square and Phase 1) Compulsory Purchase Order (the “Order”) was made on 9 May 2023. The Order is for the compulsory purchase of 9 plots of land (the “Order Land”), including land labelled as Plot 1 in the schedule to the Order. Plot 1 comprises of the office complex, associated access and parking known as Trafford Court, Doncaster DN1 1PN. The Interest Owner is an occupier and has a leasehold interest in Unit 4 of Trafford Court together with car parking spaces and some external areas (“Unit 4”).
2. In accordance with the notice of the making of the Order, which was dated on 18 May 2023, and sent to the Interest Owner’s company secretary at its registered address, the deadline for making objections to the Order is 15 June 2023. The Interest Owner hereby objects to the Order as set out in this document.

The Interest Owner's interest in the Order Land

3. The Interest Owner is an occupier of Unit 4 and has a leasehold interest registered in HM Land Registry under title number SYK618610 by virtue of a lease dated the 24 June 2014. The lease is protected by the provisions relating to security of tenure in the Landlord and Tenant Act 1954. Attached at Appendix 1 of these objections is a copy of the lease and a copy of the Interest Owner's leasehold title in the form of office copy entries and a title plan.
4. The Interest Owner is a lessee on land within the Order Land and therefore has a qualifying interest under section 12(2) of the Acquisitions of Lands Act 1981. These objections to the Order cannot be resolved wholly by a claim for compensation. The objections are therefore relevant objections under section 13(6) of the Acquisition of Lands Act 1981.
5. The previous freeholder of Trafford Court, including Unit 4, was Trafcourt Properties Limited. The Council purchased the freehold from Trafcourt in or around April 2023, according to the Land Registry documentation attached at Appendix 2 to these objections. According to the best of the objector's knowledge 6 out of 8 units at Trafford Court are occupied.

The Interest Owner's Address

6. The Interest Owner's registered address is 8 Leodis Court, David Street, Leeds 8 Leodis Court, David Street, Leeds, England, LS11 5JJ.

The Interest Owner

7. The Interest Owner is a recruitment agency which was founded in 1994 and incorporated in 1996. The company directors and secretary are as set out in the document attached at Appendix 3.
8. The Interest Owner provides a wide range of sectors with staff from its 9 offices including Unit 4, located in Doncaster City Centre. It has operated from Trafford Court since 1998, under an earlier lease than the current lease dated 24 June 2014. It employs 9 staff in the Doncaster office. It currently has 100 employer customers and 160 temporary staff in the Doncaster area. The director of the Interest Owner would estimate that the business brought roughly £ 5 million, in terms of its turnover, in the last year.

9. Around 90% of staff provided from the Interest Owner's Doncaster office is provided to businesses within the Doncaster area. Currently, the employment provided by the Interest Owner in the Doncaster area services a diverse range of industry and commerce sectors with wages ranging from the minimum wage to £30 an hour. 31% of the staff registered with the Interest Owner's Doncaster office are from various ethnic minority groups while 15% are women. Just under 10% are over the age of 60 and under 2% are students.
10. The city centre location of Trafford Court and its proximity to the railway station and bus services play an important and substantial part of the Interest Owner's ability to provide employment and service employers in the local area. A large percentage of its agency workers access Unit 4 from the train or local bus service, go into the office to register and go on to work in the city centre and Doncaster's local area.

The Scheme

11. The Order was made under subsections 226(1)(a) and (3)(a) of the Town and Country Planning Act 1990 (the "1990 Act"). The Acquiring Authority has stated that its purpose is to facilitate the development of a significant extension to the recently upgraded Railway Square to allow connection with Station Gateway Site, allowing greater walkability and space for the enterprise and the delivery of a 4-5 storey office/mixed use building with a wider public realm, connectivity, active travel and regeneration elements.
12. The Statement of Reasons accompanying the Order states that the scheme consists of 2 key projects:
- The extension of Railway Square public realm; and
 - The delivery of Gateway Office Development which includes a mixed-use building comprising of commercial, retail and office space and public realm development.
13. According to the Statement of Reasons, the purpose of the scheme is to drive economic regeneration of the Order Land and to act as a catalyst project for the wider transformation of Doncaster City Centre.
14. To the Interest Owner's knowledge, no planning permission has been submitted for the Scheme. The Statement of Reasons refer to the fact that

pre-application documents have been submitted to the Acquiring Authority's planning department but these documents do not appear to be available on the internet. The Interest Owner has therefore not seen an indicative layout of the scheme and on 12 June 2023 made enquiries of the Acquiring Authority for a copy of the pre-application documents.

15. The Statement of Reasons show that the Acquiring Authority's planning department have stated that the indicative scheme would need to go through further design development and sequential testing before it would be considered acceptable by the officers who assessed the pre-application documents. The application would also have to go through the usual statutory and democratic planning application process.
16. The Statement of Reasons states that Scheme proposes the demolition of Trafford Court to be replaced by 3000m² of public realm in the form of soft landscaping, 400 metres of new or upgraded cycle or walking paths and 30 cycle parking spaces. The Railway Station has, according to the Statement of Reasons, benefitted from a recent upgrade which was completed in 2020. The Gateway office will contain a further 2600m² of improved public realm, which has already been built.
17. The Interest Owner does not know (as the Scheme has not been finalised and it has not seen a copy of the indicative layout of the Scheme) if it is possible for the Gateway office to be built without the need to demolish Trafford Court. The Statement of Reasons does not set out how much, in terms of square meterage, office, commercial or retail space will be lost if and when Trafford Court is demolished.

Interest Owner's History with the Order and Scheme

18. Mr Andrew Skorupka, the company secretary and one of the company directors of the Interest Owner, first heard about the impending CPO in the summer of 2022. He spoke, once and on the phone, with the Acquiring Authority's Principal Surveyor, Ms Joanne Chipp-Smith, in September 2022. He received requisitions regarding Unit 4 from the authority's solicitors in October 2022. He has since received a list of alternative properties from Ms Chipp-Smith, none of which were suitable for the Doncaster office's needs. He has also received a request for rents and rates from the Acquiring Authority.

19. No monetary offer in respect of the Interest Holder's interest or offer to pay the Interest Owner's surveyor's fees to negotiate a purchase of the Interest Owner interest voluntarily has been made by the Acquiring Authority, although Ms Chipp-Smith has mentioned that compensation will include payment of reasonable professional fees.

Relevant Law and Guidance

20. The main guidance document for Compulsory Purchase Orders ("CPOs") is the Department for Levelling Up Housing and Communities document 'Guidance on Compulsory Purchase Process and the Crichel Down Rules'.

The document states the following:

- Acquiring Authorities should use compulsory purchase powers where it is expedient to do so but a CPO should only be made where there is a compelling case in the public interest and that the acquiring authority should be sure that the purposes for which the compulsory purchase order is made justify interfering with an interest in the land affected (paragraph 2).
- Particular consideration should be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention (paragraph 12).
- The minister confirming the order has to be able to take a balanced view between the intentions of the acquiring authority and the concerns of those with an interest in the land that it is proposing to acquire compulsorily and the wider public interest (paragraph 13).
- The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement. Where acquiring authorities decide to/arrange to acquire land by agreement, they will pay compensation as if it had been compulsorily purchased, unless the land was already on offer on the open market.
- In order to reach early settlements, public sector organisations should make reasonable initial offers, and be prepared to engage constructively with claimants about relocation issues and mitigation and accommodation works where relevant (paragraph 3).

- Acquiring authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted, save for lands where land ownership is unknown or in question (paragraph 17).
- In paragraph 19, the guidance states that acquiring authorities should consider these steps to assist those affected by a compulsory purchase order:
 - i. providing full information from the outset about what the compulsory purchase process involves, the rights and duties of those affected and an indicative timetable of events; information should be in a format accessible to all those affected
 - ii. appointing a specified case manager during the preparatory stage to whom those with concerns about the proposed acquisition can have easy and direct access
 - iii. keeping any delay to a minimum by completing the statutory process as quickly as possible and taking every care to ensure that the compulsory purchase order is made correctly and under the terms of the most appropriate enabling power
 - iv. offering to alleviate concerns about future compensation entitlement by entering into agreements about the minimum level of compensation which would be payable if the acquisition goes ahead (not excluding the claimant's future right to refer the matter to the Upper Tribunal (Lands Chamber))
 - v. offering advice and assistance to affected occupiers in respect of their relocation and providing details of available relocation properties where appropriate
 - vi. providing a 'not before' date, confirming that acquisition will not take place before a certain time
 - vii. where appropriate, give consideration to funding landowners' reasonable costs of negotiation or other costs and expenses likely to be incurred in advance of the process of acquisition
- Where planning permission is yet to be granted, acquiring authorities will be required to demonstrate that there are no planning impediments to the scheme assuming that any planning permission will be determined in accordance with the usual criteria of compliance with the local plan unless material considerations indicate otherwise (paragraph 15)
- In respect of the public sector equality duty, the guidance reiterates that all public sector bodies, including acquiring authorities, are bound

by the Public Sector Equality Duty set out in section 149 of the Equality Act 2010 (Attached as Appendix 4). As such, throughout the compulsory purchase, acquiring authorities must have due regard to the need to: (a) eliminate unlawful discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it using the following example:

21. In respect of the compulsory purchase powers in section 226 of the 1990 Act, the guidance states that any programme of land assembly needs to be set within a clear strategic framework, and this will be particularly important when demonstrating the justification for acquiring land compulsorily under section 226(1)(a). Such a framework will need to be founded on an appropriate evidence base, and to have been subjected to consultation processes, including those whose property is directly affected (paragraph 104).
22. The guidance states that it is not always necessary for a full scheme to be worked up before the confirmation of a CPO but in such cases, the responsibility will lie with the acquiring authority to put forward a compelling case in advance of resolving all uncertainties (paragraph 105). Paragraph 106 of the guidance states that the confirming authority is able to consider whether the purpose for which the land is proposed to be acquired can be achieved by any other means. This includes (but is not restricted to) whether the landowners have put forward any alternative proposals.
23. In terms of whether there is a compelling case in the public interest the case of *Prest v Secretary of State for Wales Estates Gazette May 7 1983(1982) 266EG 527* explains the limits of the compulsory purchase powers:

“The use of compulsory powers

*The first is fundamental. To what extent is the Secretary of State entitled to use compulsory powers to acquire the land of a private individual? It is clear that no minister or public authority can acquire any land compulsorily except the power to do so be given by Parliament: and Parliament only grants it, or should only grant it, when it is necessary in the public interest. **In any case, therefore, where the scales are evenly balanced — for or against compulsory acquisition — the decision — by whomsoever it is made — should come down against compulsory acquisition.** I regard it as a principle of our constitutional law that no citizen is to be deprived of his land by any public authority against his will, unless it is expressly authorised by*

Parliament and the public interest decisively so demands: and then only on the condition that proper compensation is paid, see Attorney-General v De Keyser's Royal Hotel Ltd [1920] AC 508. If there is any reasonable doubt on the matter, the balance must be resolved in favour of the citizen. This principle was well applied by Forbes J in Brown v Secretary of State for the Environment (1980) 40 P & CR 285, where there were alternative sites available to the local authority, including one owned by them.

He said (at p 291):

It seems to me that there is a very long and respectable tradition for the view that an authority that seeks to dispossess a citizen of his land must do so by showing that it is necessary.....If, in fact, the acquiring authority is itself in possession of other suitable land — other land that is wholly suitable for that purpose — then it seems to me that no reasonable Secretary of State faced with that fact could come to the conclusion that it was necessary for the authority to acquire other land compulsorily for precisely the same purpose.”(our emphasis – judgement attached at Appendix 5)

Objections

Justification for the Order

24. In terms of the Interest Owner, insufficient consideration has been given by the Acquiring Authority to the impact of displacing a company which makes a substantial contribution to the local economy and whose purpose is to provide employment for the local economy and replacing it with soft landscaping. This is, at least arguably contrary to, policy 4 of the Doncaster Local Plan 2021 (attached at Appendix 6) which states “Where possible existing land and premises used for offices, research and development and light industrial (Use Class E(g)) will be retained.”. The notes to that policy also state:

“4.64 This policy seeks to ensure that any loss of employment land or buildings still provides additional benefits to the community in which it is located. It is important that other uses are not granted permission on employment land just because the land values are more acceptable to the applicant.

4.65. It is imperative that there is compelling evidence that clearly shows that the building or land is no longer viable for employment use. The applicant will need to demonstrate that the building or land has been marketed to the

Council's satisfaction for at least 12 months. This should include traditional and web-based marketing as well as regular advertisement in local, regional 35 [go to Contents] and national publications as appropriate. In addition to this, opportunities to re-let the building need to be fully explored. It should be demonstrated that the building or land have been marketed at a price commensurate with market values (based on evidence from recent and similar transactions and deals). It should also be demonstrated that the terms and conditions set out in the lease are reasonable and attractive to potential business and that no reasonable offer has been refused.

4.66. In the past the Borough has seen increased pressure on employment sites for community, leisure, specialist retail uses (such as car or caravan showrooms) and service uses which do not have specific allocations or which prefer to be on employment sites where business needs are met. However, these uses will only be permitted where relevant considerations have been addressed such as proving demand for the use, passing a sequential test (if relevant), addressing highways and parking issues and environmental health concerns. It is recognised that the changes to the Use Class Order which came into effect on 1 September 2020 now mean that some uses no longer require planning permission to change to a different use."

As the Scheme does not have planning permission, this affects the planning arguments which are relevant in the Confirming Authority's considerations as to whether to confirm the Order.

25. Without seeing the indicative or approved layout it is difficult to understand why the Scheme needs another 3000 m2 of soft landscaping, to provide a green urban space in the city centre (as stated in the Statement of Reasons) when the Gateway Office part of the Scheme already consists of 2600 m2 of public realm/landscaping.
26. The Statement of Reasons does not provide any detail on what is being done, apart from building the Scheme, to attract the kind of investment that the Acquiring Authority wants in Doncaster City Centre. There is insufficient information in the Statement of Reasons to demonstrate a compelling case in the public interest for the Order.

Duty to Negotiate/Treat Compulsory Purchase as a means of 'last resort'

27. The Acquiring Authority has not discharged its duty to negotiate and cannot prove that the compulsory acquisition was a means of last resort or even necessary at this time. The authority's contact with the director of Interest Owner has been sporadic and has consisted of one substantive phone call, one set of suggested locations and a few emails. It is not correct to say that,

as set out in the Statement of Reasons, the Acquiring Authority has held regular meetings with the Interest Owner.

28. Information about when the Interest Owner would have to move or start looking for properties has been vague in discussions with the Acquiring Authority and the Interest Owner had no real opportunity to make plans before he received notification of the Order.

29. The Acquiring Authority to date has not made any monetary offer to the Interest Owner or any direct offer to cover the Interest Owner's costs in engaging professional help to negotiate a settlement. The above is not in keeping with the CPO guidance as set out above.

Planning

30. There are 3 potential planning impediments to the Scheme which have not been resolved – whether the further design of the Scheme will be satisfactory, whether the sequential test will result in the approval of the scheme and the possible incompatibility of the Scheme with policy 4 of Doncaster's local plan – as set out above. The Scheme has yet to go through its democratic and statutory planning application process, which does not itself prevent the grant of the Order but creates further uncertainty. As the guidance states, in this case, it is the responsibility of the Acquiring Authority to put forward a compelling case in advance of resolving all its uncertainty.

31. The Statement of Reasons does not put forward this compelling case. It fails to demonstrate the compelling public interest in compulsorily acquiring land and disrupting the business of the Interest Owner to replace Unit 4 with landscaping in circumstances where there is already a substantial public realm as part of the scheme. With the information provided with the Statement of Reasons, it is not possible to tell whether an alternative scheme could be designed which will enable the retention of Trafford Court or if this will be considered as part of the further design exercise which the Acquiring Authority's planning officers have said must be undertaken.

Human Rights and Public Sector Equality Duty

32. The Interest Owner's directors and majority shareholders human rights in Article 1 of the First Protocol of the European Convention of Human Rights (right to enjoy property peacefully) are engaged in respect of their business interest, income and occupation of Trafford Court.
33. The Acquiring Authority has failed to make adequate enquiry of the Interest Owner's business which would allow it to assess the impact of disruption, displacement or closure or to discharge its Public Sector Equality Duty ("PSED"). The Acquiring Authority has not made any enquiries about the Interest Owner's Doncaster's office which could have led it to find out the statistics set out in paragraph 9 above or made any real assessment of the impact of displacing or disrupting the Interest Owner's Doncaster office on the local area as well as groups with protected characteristics. It is well known, for example, that losses or displacement of temporary or part time jobs tend to affect women disproportionately.
34. The above is relevant to the Acquiring Authority's PSED assessment and the CPO guidance advises acquiring authorities to be aware of trends like this. For instance it states in paragraph 6 of the CPO guidance states:

"For example, an important use of compulsory purchase powers is to help regenerate run-down areas. Although low income is not a protected characteristic, it is not uncommon for people from ethnic minorities, the elderly or people with a disability to be over-represented in low income groups. As part of the Public Sector Equality Duty, acquiring authorities must have due regard to the need to promote equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it"

In fact, as shown by paragraph 9 of these objections, a substantial percentage of the staff registered with the Doncaster office are from ethnic minority groups.

35. The PSED does not require the Acquiring Authority to come to any particular conclusion as regards its assessment but does require that it makes adequate enquiries in discharging its duty. It has not done and therefore has failed to make an adequate assessment in respect of PSED.

Funding

36. There is a lack of detail in respect of the funding case for the Order in the following respects:
- a. The need to make the Order now seems to be driven, in part, by the impending deadline for spending the grant from the Department of Levelling UP Housing and Communities (DLUHC). The Statement of

Reasons does not confirm or provide detail on whether the expenditure deadline of March 2026 can be extended to allow tenants such as the Interest Holder to find alternative properties.

- b. There is a lack of detail as to how the Acquiring Authority's agents, Motts MacDonald worked out the value that the Scheme would provide especially in light of the lack of any measures, other than to build the Scheme, to attract the type of investment that the Acquiring Authority has stated that it wants. This information may be in the Acquiring Authority's business case but that document is not available publicly.
- c. The assertions regarding the management of inflation in the Statement of Reasons do not reflect the unpredictable rise of inflation that has been observed over the last 12 to 18 months. This coupled with the fact that the Acquiring Authority has left itself with virtually no margins regarding the costs of the scheme, makes the financing of the scheme substantially less certain than asserted in the Statement of Reasons. The guidance states that the greater the uncertainty regarding the financial viability of the Scheme, the more compelling the other grounds for undertaking the compulsory purchase will need to be and as set out elsewhere in these objections, the case for compulsory purchase lacks compelling grounds.

Overall Assessment: Compelling Case in the Public Interest

- 37. The Order is for the compulsory purchase of Trafford Court to allow for the delivery of an extended public realm for the newly refurbished Railway Station in Doncaster, in so far as it affects the Interest Owner's land, and also a Gateway Office. The public realm will mostly be landscaping as well as 400 metres of new or upgraded cycle or footpaths and cycle storage.
- 38. The Statement of Reasons and accompanying documents do not demonstrate a compelling case in that the planning scheme is not fully formed and it is not known whether the demolition of Trafford Court can be avoided. There is also no indication of how the Acquiring Authority intends to attract businesses to Doncaster City Centre, as set out in its Statement of Reasons.
- 39. The Acquiring Authority has not assessed the contributions made by the Interest Owner's Doncaster Office to the city centre and local area, particularly in the area of provision of jobs and the importance of the current location to the recruitment business, which is central to economic regeneration. The authority has not adequately justified the replacement of the office with landscaping and the things mentioned in the Statement of Reasons – like community flows, enhanced perception of place and increased health and

well-being for residents – have not been assessed by the authority against the impact of the loss or displacement of the Interest Owner's business.

Irwin Mitchell LLP

14 June 2023