

**THE DONCASTER (CITY GATEWAY – RAILWAY SQUARE AND PHASE 1)**

**COMPULSORY PURCHASE ORDER 2023**

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**PROOF OF EVIDENCE OF NEIL FIRTH**

**FOR AND ON BEHALF OF CITY OF DONCASTER COUNCIL**

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**PINS REF: APP/PCU/CPOP/F4410/3324357**

**STATEMENT OF TRUTH**

**The evidence which I have prepared and provide for this Public Inquiry in this proof of evidence is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions**

**Date: 27 March 2024**

**Signature:**

A handwritten signature in blue ink, appearing to read 'J. Smith', enclosed in a light blue rectangular box.

## **PROOF OF EVIDENCE: DELIVERY, VIABILITY AND FUNDING**

### **1. INTRODUCTION**

- 1.1. I am Neil Firth, Head of Service for Major Projects and Investment at City of Doncaster Council (the “Council”)
- 1.2. In terms of my qualifications and experience, I am an Incorporated Civil Engineer and have an MA in urban design. I have almost 40 years’ experience in delivering major infrastructure projects. I have led the Major Project (“MP”) teams at the Council (which includes professionals leading on design, project management and procurement) for 15 years. The MP teams are responsible for the delivery of the Council’s major infrastructure projects including the rail college, library museum, cinema complex, airport link road alongside major transport infrastructure.
- 1.3. My role in relation to this project has been to head the team responsible for overseeing and managing the delivery of the project on behalf of the Council and the Towns Deal board. The formation of a town deals board was a requirement of the bid. The board was established to provide independent scrutiny and oversight in the delivery or the bid.

### **2. SCOPE OF EVIDENCE**

- 2.1. My evidence covers the following points and issues:
  - 2.1.1. Funding and viability;
  - 2.1.2. Delivery;
  - 2.1.3. Response to objections raised in relation to funding and delivery issues; and
  - 2.1.4. Assessment against the key compulsory acquisition legal tests.

### **3. VIABILITY AND FUNDING**

- 3.1. On the 6th September 2019 the Ministry for Housing, Communities and Local Government (“MHCLG”) (now the Department for Levelling Up, Housing and Communities (“DLUHC”)) announced the establishment of a £3.6 billion Towns Fund to support economic regeneration, and invited 100 places to develop proposals for up to £25 million of investment per place. One of these places was the City of Doncaster.

3.2. The proposal/bid for the Towns Fund to secure funding was developed by the Council supported by consultants Mott MacDonald alongside the Doncaster Town Deal board. Consultation with key stakeholders and members of the public was undertaken (**POE/NF/1**), by the Council and Mott MacDonald on behalf of the Town Deal board. As a result of the development of the proposal and the consultation exercise undertaken, the Town Investment Plan ("TIP") for Doncaster (**CD/26**) (being part of the proposal/bid for the Towns Fund) was submitted to MHCLG in January 2021.

3.3. The Town Deal board provided scrutiny to the bid and was responsible for its approval prior to submission. The Town Deal board was assembled following government guidance, and the purpose of the board is to develop and deliver the Town Investment Plan, as stated in the Doncaster Town Deal Board Terms of Reference (the 'TOR') (**POE/NF/2**):

*Doncaster Town Deal board has been set up by the council, to design and deliver an economic growth strategy for the town. This Board is part of the Government's programme of funding for towns. In September 2019, the Ministry of Housing, Communities & Local Government (MHCLG) announced a £3.6bn Towns Fund for 101 towns to drive economic development. There is a focus on urban regeneration, improved transport, better broadband connectivity, skills and culture.*

3.4. The Town Deal board played a key role in identifying areas for regeneration as part of the Doncaster Urban Centre Masterplan ("DUCM") (**CD/36**). There was a process of shortlisting and prioritisation prior to the settlement of the projects included in the bid. The full process was guided by DLUHC using specified documents and templates.

3.5. From the TOR the purpose of the Town Deal board is:

- a. Overseeing the development of full business cases by the accountable body (the Council) for projects identified in the TIP - in line with DLUHC guidance;
- b. The Chair of the Town Deal board counter-signs the summaries for each business case, alongside the accountable body's Section 151 Officer;
- c. Overseeing the assurance of the full business cases, prior to submission to DLUHC; and
- d. Overseeing the delivery of the projects identified within the business cases, working alongside the accountable body.

3.6. The Council procured and carried out the consultation referred to in paragraph 3.2 above through consultants, Commonplace and Locality, to undertake and produce the consultation report which formed part of the TIP. The consultation was a key element that needed to be included in the TIP, and stipulated in the Ministry of Housing, Communities and Local Government Towns Fund Guidance at paragraph 4.17, pg 19 (**POE/NF/3**):

*This is a key part of developing the Town Investment Plan and we want towns to demonstrate the buy-in they have secured with the community. We are not being prescriptive about how this looks, however – and it can and should build on existing partnerships, consultation and mobilisation in the local community. Towns may choose to use the capacity funding, provided December 2019, to support community engagement*

3.7. Public consultation held online was included on social media channels, for example Facebook, and was also directed at local business and residents, and all Council staff received a link to the consultation – being residents of the Borough.

3.8. On 30 July 2021, MHCLG released Heads of Terms (“HoT”) for the Council (**POE/NF/4**). The HoT contained a provisional ‘offer’ to the Council of £24.8m - including conditions set out in the contract and expected outcomes/outputs as outlined in the TIP. The Heads of Terms were accepted by the Council in late June 2021 (**POE/NF/5**).

3.9. DLUHC released a Grant Offer Letter for the Doncaster Town Deal on 11th November 2021 (**CD/28**) for a total £24.8m allocated to the projects outlined below;

- a. Project A - Doncaster Gateway: Railway Square Extension (£4.149m provisional offer).
- b. Project B - Doncaster Station Gateway: New Multi-Use Building and Associated Public Realm (£20.09m provisional offer).
- c. Project C Doncaster Heritage 561,000 (not related to this compulsory purchase order).

Total 24,800,000

- 3.10. Both Project A and Project B make up the “Scheme”, which is to be delivered through the Doncaster (City Gateway – Railway Square and Phase 1) Compulsory Purchase Order 2023 (the “Order”).
- 3.11. The Economic Benefits of the Scheme are set out in the Economic Business Case which forms part of the Full Business Case (**CD/9**) and include Direct Land Value Uplift, Wider Area (indirect) land value uplift, Active Travel Benefits, Employment Benefits and Crime Reduction. Further details are provided in Matthew Lambert’s evidence.
- 3.12. It is concluded by Mott Macdonald (see Matthew Lambert’s evidence) that the Scheme represents Value for Money as defined by Treasury Green Book standards, based on the funding being requested, the outputs that will be delivered and wider social considerations of impact. As set out in Matthew Lambert’s evidence at paragraph 4.14, analysis was undertaken to determine the Benefit Cost Ratio (“BCR”) of benefits that could be reasonably quantified. The benefits of the Scheme more than exceed its cost, with a combined BCR of 1.72 (Multi-Use Building 1.74 and Railway Square Extension 1.65) which means for every £1 of cost, the monetised value of benefits is £1.72. This is rated ‘medium’ by the standard UK Government Value for Money framework (**POE/NF/7**) which is detailed further in Matthew Lambert’s proof at 4.14.1.
- 3.13. As set out in more detail below, the estimated cost of the Scheme has increased to £27,039,0007 due to inflation and the acquisition cost of Trafford Court. The investment by Town Deal of £24,239,000 (being Project A and Project B as set out in paragraph 3.9 above) of funding towards the project has been increased by £2,800,000 of public sector investment required to cover the increased cost estimate.
- 3.14. The funding for the Scheme is set out in the Full Business Case (**CD/9**) produced by the Council, which was approved to be submitted to DLUHC by Cabinet decision of 8 June 2022 (**CD/2**) (where the decision was taken to provide the additional £2.8million investment outlined in paragraph 3.13 above). This was approved by DLUHC in August 2022 (**POE/NF/8**).
- 3.15. A summary of the funding for the Scheme as set out in the Full Business Case is as follows:

Projects	2022/23	2023/24	2024/25	2025/26	Total £m
	£m	£m	£m	£m	

Doncaster Gateway: New Multi- Use Building and Associated Public Realm	1.488	2.595	12.075	4.932	<b>21.090</b>
Doncaster Gateway: Railway Square Extension	2.307	1.975	0.604	1.063	<b>5.949</b>
<b>Total Estimated Project Costs</b>	<b>3.795</b>	<b>4.570</b>	<b>12.679</b>	<b>5.995</b>	<b>27.039</b>
<b>Funding Source</b>	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>	<b>2025/26</b>	<b>Total £m</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	
Doncaster Gateway: New Multi- Use Building and Associated Public Realm					
Town Deal Investment	1.488	1.595	12.075	4.932	<b>20.090</b>
Other Public Sector Investment - DMBC	0.000	1.000	0.000	0.000	<b>1.000</b>
Doncaster Gateway: Railway Square Extension					
Town Deal Investment	2.307	0.175	0.604	1.063	<b>4.149</b>
Other Public Sector Investment - DMBC		1.800			<b>1.800</b>
<b>Total Funding</b>	<b>3.795</b>	<b>4.570</b>	<b>12.679</b>	<b>5.995</b>	

3.16. The increase in the project cost to £27,039,000 is primarily due to increased costs related to the property acquisitions required to deliver the Scheme.

3.17. The valuation originally provided was based on a desktop valuation produced by the Council's Asset Management Team and were calculated upon a landlord and tenant basis rather than a CPO Compensation basis.

3.18. Once the need for a CPO became established and a red line boundary identified, the Council requested a price cost estimate from the District Valuer.

- 3.19. The District Valuer has provided an estimated cost for the acquisition of the properties required to deliver the Scheme which is significantly higher than the costs included in the DTIP (**CD/26**) which did not take account of disturbance and severance costs.
- 3.20. The District Valuers estimate was £5m - £6m.
- 3.21. The Council have a robust cost estimate which they consider to be deliverable.
- 3.22. At its meeting on 8<sup>th</sup> June 2022, the Council's Cabinet approved the use of its Investment and Modernisation Fund to meet the identified funding gap of £2.8million (**CD/2**). The Investment and Modernisation Fund is funded by borrowing with the borrowing costs assumed to be covered by income generated from the project (in this case the rents). If project costs increase further, other sources of funding will need to be secured. A bid may be made to the Council's Investment and Modernisation Fund for additional funding if the project cannot continue without this and the income from the Scheme is sufficient to meet the requirements of the fund. I would not consider this to be problematic, because there is sufficient room within the rental income to borrow against. In addition, the Council's Cabinet are aware as part of the approval further funding may be required and this would be the process to follow to secure this.
- 3.23. The Council has been working with Queensberry Real Estate Consultants who have provided expert advice (**POE/NF/9**) on the current market demands for commercial office space, in addition to projected potential rental income from the development.
- 3.24. In my view Queensbury's advice suggests that rental income generated by the building will adequately cover any borrowing costs to cover any shortfall. Queensbury's advice also suggests that the new building should be attractive and marketable to tenants.

#### **4. DELIVERY**

- 4.1. In my professional opinion, and on behalf of the Council in my role as Head of Major Projects and Investment, I am satisfied that:
- a. there is a strong and deliverable business model for the Scheme;
  - b. there is a funding model that supports the delivery of the Scheme to the delivery programmed as outlined below;
  - c. the cost estimate includes a contingent a risk for inflation; and



- d. the Council have underpinned the budget with a commitment to cover any cost increase due to Inflation.
- 4.2. The initial Town Deal funding grant was based on a targeted completion date of end of March 2026 as submitted in grant offer and accepted by DLUHC. Due to delays in site acquisitions the current programmed completion is now targeted at November 2026.
- 4.3. The conditions of the Town Deal funding grant do not contain any clawback conditions, however the Council must monitor and evaluate the programme and submit regular reports to DLUHC as well as meeting with officials from DLUHC that form part of the Town Deal board. The Council has kept DLUHC informed of the programme and the impact on the completion date. DLUHC is fully aware of the extension to the delivery programme, the new targeted completion date of November 2026 and DLUHC have indicated they are content with the revised programme at the town deal board.
- 4.4. The Council currently has a contract in place with Willmott Dixon for the Pre-Construction Services (being the Scheme development and design prior to instructing to build) required to progress the design and project development through RIBA Design Stages 3 and 4, as per the project programme.
- 4.6. Through the appointment of Willmott Dixon from the Scape Framework in February 2022 (a procurement framework that the Council uses) the Council has successfully delivered several award-winning major projects, including the National College for High Speed Rail and new Library and Museum.
- 4.7. The appointments related to this work were in full compliance of the Council's Contract Procedure Regulations.
- 4.8. The Main Works contract is currently programmed to be entered into in January 2025, subject to the completion of the necessary acquisitions
- 4.8.1. **Construction start date:** 17th March 2025
- 4.8.2. **Construction completion:** 12<sup>th</sup> November 2026
- 4.9. In my opinion the construction could be completed sooner than outlined above following confirmation of the Order. The programme outlined above is to ensure smooth transition for tenants and occupiers.

## **5. OBJECTIONS**

5.1. Two qualifying objections were received in relation to the Order. No unqualifying objections have been received. The aspects of the objections related to the Scheme being deliverable, viable, and appropriately funded, are considered and responded to below.

### **WOLSELEY**

5.2. Wolseley's objection does not specifically address funding, delivery or viability issues. As such, I have not provided further responses to Wolseley's objection this this proof of evidence.

### **TASKMASTER**

Text taken from Wolseley's objection is shown in italics in this section.

#### **5.3. Ground 5: Funding**

*"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."*

5.3.1. As set out in the Grant Offer Letter from DLUHC dated 11 November 2021 (**CD/28**) the funding is to be used across the financial years 2021/22 to 2025/26, therefore the Scheme needs to be delivered by March 2026. The funding requirements are clear and as such, the Council must proceed on the basis that the deadline is required to be met. As such, in order to meet the funding deadline, compulsory purchase powers need to be exercised now. DLUHC representatives are in regular attendance at the Doncaster Town Deal Board and are aware of the progress of the project and the Order.

5.3.2. The Summary Business Case was made available with the relevant Cabinet Papers and the Full Business Case is a publicly available document. This can be seen at (**CD/9**).

5.3.3. In relation to inflationary pressures, the Council have already identified this as a potential impediment to the project. As set out at paragraph 3.19 above, the Council committed by way of Cabinet Decision on 8 June 2022 (**CD/2**) to fund that gap by way of allocation of finances from the Council's Investment & Modernisation Fund. That decision was taken at a time when the inflationary pressures were clearly apparent, following factors such as the Covid Crisis and the invasion of Ukraine.

5.3.4. The extent of the project has not changed in the last 18 months, the proposed start has been revised to March 2025 and therefore there may be small inflationary costs to consider, however the current budget has contingency for inflation and so the precautionary budget and additional funding are considered to be sufficient. The Council has the benefit of significant funding from DLUHC, has already committed by purchasing the freehold to Trafford Court and the Council's Cabinet have resolved to provide alternative funding to deal with any shortfalls. The Scheme is an important part of the DTIP (**CD/26**) and DUMC (**CD/36**) and so there can be every confidence that the Scheme will be delivered.

## **6. HOW THE RELEVANT CPO TESTS ARE MET**

6.1. Compulsory acquisition of land is a means of last resort, and as such, there are a number of tests that need to be satisfied if the Order is to be confirmed. I have set the relevant tests out below and how they relate to funding, viability and delivery.

**The Council should be able to show that all necessary resources are likely to be available within a reasonable timescale. The Council should address sources of funding and timing of that funding as part of its justification.**

6.2. As set out in paragraphs 3 and 5.3.1 – 5.3.4 above, I am of the view that the Scheme is appropriately funded. The Scheme will be delivered within the current budget. Value engineering will be undertaken should any costs be increased at contract award stage. There is contingency included in the budget to cover inflation. As such, I consider that this test is satisfied.

**The Council should be able to show that the Scheme is unlikely to be any physical or legal impediments to the delivery of Scheme.**

6.3. I consider this test to be satisfied. As set out in paragraph 4 of my statement, I do not consider there to be any impediment to delivery of the scheme, and there are no impediments or constraints that will prevent the Scheme from being implemented and delivered if the Order is confirmed.

## **7. CONCLUSION**

7.1. In my professional opinion, and on behalf of the Council in my role as Head of Major Projects and Investment, I am satisfied that:

7.1.1. there is a strong and deliverable business model for the Scheme;

7.1.2. there is a funding model that supports the delivery of the Scheme to the delivery programmed as outlined below;

7.1.3. the cost estimate includes a contingent a risk for inflation; and

7.1.4. the Council have underpinned the budget with a commitment to cover any cost increase due to Inflation.

7.2. A total of £24,239,000 was secured from DLUHC on 11<sup>th</sup> November 2021 to deliver the Scheme (CD/28).

7.3. The estimated cost of the Scheme has increased to £27,039,000 due to inflation and the acquisition cost of Trafford Court. The investment by Town Deal of £24,239,000 of funding towards the project has been increased by £2,800,000 of public sector investment required to cover the increased cost estimate.

- 7.4. If project costs increase further, other sources of funding will need to be secured. A bid may be made to the Council's Investment and Modernisation Fund for additional funding if the project cannot continue without this and the income from the Scheme is sufficient to meet the requirements of the fund. I would not consider this to be problematic, because there is sufficient room within the rental income to borrow against. In addition, the Council's Cabinet are aware as part of the approval further funding may be required and this would be the process to follow to secure this.
- 7.5. The Council has been working with Queensberry Real Estate Consultants who have provided expert advice (**POE/NF/9**) on the current market demands for commercial office space, in addition to projected potential rental income from the development. In my view Queensbury's advice suggests that rental income generated by the building will adequately cover any borrowing costs to cover any shortfall. Queensbury's advice also suggests that the new building should be attractive and marketable to tenants.
- 7.6. The initial Town Deal funding grant was based on a targeted completion date of end of March 2026 as submitted in grant offer and accepted by DLUHC. Due to delays in site acquisitions construction is due to start on site in March 2025 and current programmed completion is now targeted at November 2026.
- 7.7. In my opinion the construction of the project could be completed sooner than outlined above following confirmation of the Order. The programme outlined above is to ensure smooth transition for tenants and occupiers.
- 7.8. The conditions of the Town Deal funding grant do not contain any clawback conditions, however the Council must monitor and evaluate the programme and submit regular reports to DLUHC as well as meeting with officials from DLUHC that form part of the Town Deal board. The Council has kept DLUHC informed of the programme and the impact on the completion date. DLUHC is fully aware of the extension to the delivery programme, the new targeted completion date of November 2026 and DLUHC have indicated they are content with the revised programme at the town deal board.
- 7.9. In any event, the delivery deadline set by DLUHC currently remains March 2026 and therefore the Council must proceed on the basis that the deadline is required to be met. As such, in order to meet this deadline, compulsory purchase powers need to be exercised now.

7.10. The extent of the project has not changed in the last 18 months, the proposed start has been revised to March 2025 and therefore there may be small inflationary costs to consider, however the current budget has contingency for inflation and so the precautionary budget and additional funding are considered to be sufficient. The Council has the benefit of significant funding from DLUHC, has already committed by purchasing the freehold to Trafford Court and the Council's Cabinet have resolved to provide alternative funding to deal with any shortfalls. The Scheme is an important part of the DTIP (**CD/26**) and DUMC (**CD/36**) and so there can be every confidence that the Scheme will be delivered.