THE DONCASTER (CITY GATEWAY — RAILWAY SQUARE AND PHASE 1) COMPULSORY PURCHASE ORDER 2023

REBUTTAL EVIDENCE

OF

SCOTT CARDWELL

10 APRIL 2024

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

STATEMENT OF TRUTH

The evidence which I have prepared and provide for this public inquiry reference APP/ PCU/CPOP/F4410/3324357 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: 10 April 2024

Signature: Schell

1. QUALIFCATIONS AND EXPERIENCE

- 1.1. I am Scott Cardwell and I am the Assistant Director for Economy and Place at City of Doncaster Council ('the Council'). I am Chief Planner for the Council.
- 1.2. My qualifications and experience are set out in full at Paragraphs 1.2 to 1.4 of my Proof of Evidence, dated 27 March 2024.

2. OBJECTION OF MR NEIL BERTMAN

2.1. Mr Bertman's Proof of Evidence raises a number of grounds of objections to the use of compulsory purchase powers. I have commented below in respect of those that are pertinent to my expertise and involvement with the scheme.

Paragraph 5: There are 7 full time employees at Trafford Court. They have been with us from a range of 1 to 13 years. Our receptionist does not drive and relies on public transport to get to and from work, so we have had to consider her ability to get to the new office if a suitable one is found.

- 2.2. Taskmaster have raised an objection to the Compulsory Purchase Order ("CPO") as set out in their Objection Letter **CD/47** and Statement of Case **CD/49**, in relation to the Council's consideration of their duties under the Public Sector Equality Duty ('PSED'). In addition, the Proof of Mr Bertman has now provided further information regarding accessibility of the receptionist to any relocation property.
- 2.3. As can be seen in my Proof of Evidence at paragraph 11.4, the Council carried out an Initial Due Regard Assessment (the 'IDRA') prior to the making of the CPO. Whilst the above IDRA concluded that no further action was needed to be taken at that time, the Council remain committed to keeping the process and PSED under review throughout the CPO and the project process.
- 2.4. Taking into account the latest information provided at paragraph 5 of Mr Bertman's Proof regarding the accessibility for the Receptionist at Taskmaster; the objections received during the course of the CPO process from Taskmaster and Wolseley; the further consultation on the Scheme as part of the process to secure planning permission; and the fact that at the time of writing this Rebutall Proof, neither Taskmaster nor Wolseley have formally secured relocation premises the Council have taken the opportunity to formally reconsider the position in relation to its PSED.
- 2.5. A further IDRA was undertaken on 5 April 2024 to ensure the position remains accurate and up to date. This concluded that no further action was required, I attach that IDRA at **POE/SC/5**.

- 2.6. Notwithstanding IDRA outcome being that no further action was required, for completeness the Council has completed a Due Regard Statement. This ongoing assessment can be found at **POE/SC/6**.
- 2.7. The Council's Due Regard Statement (POE/SC/6) has concluded that:

"the overall impact of the CPO would be neutral; also taken into consideration for both assessments were the Benefit Cost Ratio of the scheme and the wider socio and economic benefits of regeneration in the area. The Council have concluded that, taking into account the information provided as objections, the overall impact would remain neutral, specifically for the following Protected Characteristics:

- Age
- Gender

The Council have taken steps to minimise the impact on those affected by the CPO process by offering alternative accommodation. The Council continues to take steps to relocate businesses and individuals affected by the CPO process and can confirm that the issues raised will be considered again prior to any general vesting declaration to take control of the land, at that point in time."

2.8. As such, I remain satisfied that the Council has satisfied its responsibilities under the PSED, and that there is nothing in either the IDRA of 5th April 2024 or the Due Regard Statement that should result in either the CPO or the Scheme not proceeding.

3. CONCLUSION

- 3.1. The Council continues to take steps to relocate businesses and individuals affected by the CPO process, to limit the effect of both the CPO and the Scheme.
- 3.2. I have considered the points raised by Mr Bertman in his proof of evidence and confirm that nothing within his proof alters the conclusions made in my Proof of Evidence, specifically in relation to the Council's Public Sector Equality Duty. This position is further supported by the IDRA of the 5th April 2024 and Due Regard Statement that have been completed.
- 3.3. The Council will continue to keep the position under the PSED under review and will carry out a further formal assessment ahead of any General Vesting Declaration.

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

COMPULSORY PURCHASE ORDER 2023

REBUTTAL PROOF OF EVIDENCE OF SCOTT CARDWELL

FOR AND ON BEHALF OF CITY OF DONCASTER COUNCIL

POE/SC/5

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





please email all completed initial Due Regard Initial Ass DRS@doncaster.gov.uk

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

COMPULSORY PURCHASE ORDER 2023

REBUTTAL PROOF OF EVIDENCE OF SCOTT CARDWELL

FOR AND ON BEHALF OF CITY OF DONCASTER COUNCIL

POE/SC/6

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

DUE REGARD STATEMENT

Reference No: CEX-F-00006

Start Date: 5th April 2024

Activity: Doncaster Town Deal – City Gateway (including CPO)

Lead Officer: Louise Fox

Decision Date:

INITIAL SUMMARY OF IMPACT

Complete the table below to highlight the impact on protected characteristics. Information on Impact should include the data and information sources that you have used to understand the needs, participation and experiences of each protected group at the start of the due regard process. If there is no impact, or you do not yet know the impact, then put that in the template. You will complete this exercise again towards the end of the due regard process to show any reduction in impact and provide the decision makers with the final levels of impact.

Age	Neutral
Disability	Neutral
Gender reassignment	Neutral
Homelessness & rough sleepers	Neutral
Marriage & Civil Partnership	Neutral
Maternity & Pregnancy	Neutral
Race	Neutral
Religion or Belief	Neutral
Sex	Neutral
Sexual Orientation	Neutral
Socio economic	Neutral
Veterans and their families	Neutral
Children in care/ leaving care	Neutral

ACTIVITY TRACKER

Use this section to track key activities and updates on key milestone. This will evidence what you did, when you did it and the outcome. Any key actions identified need to be added to the action plan and each consultation needs to be recorded in the Consultation Profile. Add extra lines as required. The first entry should be a concise profile of the activity/decision so readers understand what you are doing and why

Date	Record of key activity		
December 2020	Consultation on key proposals for the Doncaster Town Deal – Equality Data collected – published document		
26 Jan 2021	Cabinet Report 'Doncaster and Stainforth Town Deals – request to submit the overarching Town Investment Plans for Doncaster and Stainforth – published document Government guidance required that a socio-economic baselining was commissioned in the development of the Town Investment Plan and was included in the submission – Appendix A – this report includes: population and age, skills base and occupation, unemployment, deprivation, travel to work patterns, and flood risk and environment, based on the findings:		
	EQUALITY IMPLICATIONS [NA Date08/12/20] 48. There are no anticipated equality implications in relation to this report.		
8 June 2022	Cabinet report seeking approval to submit the Town Deal Business Case proposals to DLUHC granted; published document		
	EQUALITY IMPLICATIONS [Officer InitialsSR Date09.05.22]		
	15.1 Equality impact assessments will continue to be developed over the course of projects development and will be reviewed and updated at each stage		

2 November 2022	Cabinet Report to approvement commencement of a Compulsory Purchase Order for the acquisition of properties
	necessary to deliver the Doncaster Town Deal: Extract from the report:
	6. Options Considered
	The following options have been considered:
	(1) Avoid the need to acquire. This is not possible because the Doncaster Station Gateway Railway Square
	Extension and the New Multi-Use Building and Associated Public Realm projects and its outputs cannot be
	delivered without acquiring third party land.
	(2) Acquire by agreement only. Acquisition of the land required will rely on the successful completion of
	individual negotiations. Whilst landowners may be willing to negotiate it is likely that in some cases agreement
	will not be reached. The Doncaster Station Gateway Railway Square Extension and the New Multi-Use
	Building and Associated Public Realm projects could not be built as proposed if that occurred.
	(3) Acquire by agreement only but process a CPO later if required. This option could delay the scheme,
	risking the delivery of the project within the Town Deal funding timescale and potential claw back of the
	funding.
	(4) Seek to acquire by agreement with progression of a CPO in parallel. This avoids potential delay to the
	scheme and is the preferred option. The CPO process provides a statutory mechanism for objection and
	appropriate compensation, so that interest holders are not disadvantaged. CPO also allows the Council to
	override any third-party interests that burden the land and may prevent development. It also provides
	certainty in relation to highway land owned by the Council, but to which it does not hold all the relevant
	historical documents.
	Extract from report:

9.4 The decision maker must be aware of their obligations under section 149 Equality Act 2010, the Public Sector Equality Duty (PSED). It obliges public authorities, when exercising their functions, to have 'due regard' to the need to:

a. Eliminate discrimination, harassment and victimization and other conduct which the Act prohibits;

b. Advance equality of opportunity; and

c. Foster good relations between people who share relevant protected characteristics and those who do not.

9.5 The relevant protected characteristics under the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnerships, but only in respect of eliminating unlawful discrimination. The decision maker must ensure that they have seen the equality impact assessment/ due regard statement. The duty must be exercised in substance, with rigour, and with an open mind and is not a question of ticking boxes. It is for the decision-maker to decide how much weight should be given to the various factors informing the decision, including how much weight should be given to the PSED itself. The duty is a continuing one and there should be a record/audit trail of how due regard has been shown. It is not sufficient for due regard to be a "rear-guard action" following a concluded decision The decision maker must also pay regard to any countervailing factors and decide the weight to be given to these, which it is proper and reasonable to consider; budgetary pressures, economics and practical factors will often be important

Extract from report – supporting the Great 8 Priorities of the Delivery Together (Team Doncaster Borough Strategy)

			Trade-	
Great 8 Priority	Positive Overall	Mix of Positive & Negative	offs to consider – Negative overall	Neutral or No implication
Tackling Climate Change	~			
Comments: The proposed multi- and designed to BREEAM excel elements including photovoltaic triple glazing systems and a natu car free and will incorporate cycl directly adjacent the railway stati factors will contribute to the drive climate change.	lent standard panels and a ural cooling s e storage fac ion and Fren	l, incorporatin ir source heat system. The bi cilities in addit chgate transp	g sustainabl t pumps. It w uilding is pro ion to being ort interchar	e energy vill also have posed to be located nge. All these
Developing the skills to thrive in life and in work				1
Making Doncaster the best place to do business and create good jobs	~			
Comments: The associated deliv public realm and infrastructure w ground floor retail units to accom employment opportunities for Do	orks will crea modate a pol	te a top-grade tential 300 nev	office buildin v jobs, addin	ng with
Building opportunities for healthier, happier and longer lives for all	~			
The improvements to the active t people to travel without the need immediate vicinity or further afield transport connections.	for a car, wh	ether that is sl	hort journeys	within the
Inclusion of softer, greener public wellbeing of our residents. It allo to everyone. Green spaces in ur can reduce the build-up of urban	ws good qua ban areas als	lity green space	e that is free	and open
Creating safer, stronger, greener and cleaner communities where everyone belongs	~			
stronger, greener and cleaner communities where	tandard with ublic realm w	the aspiration	for the deve	lopment to

	Comments:
	Building Transport and digital connections fit for the
	future Comments:
	Promoting the borough and its cultural, sporting, and heritage opportunities ✓ Comments: ✓
	Fair & Inclusive Image: Comparison of the second
	Comments: The building development and public realm scheme will be designed in compliance with the Disability Discrimination Act to allow for maximum inclusivity and access.
20 April 2023	In April 2023, prior to the making of the CPO, the Council carried out an Initial Due Regard Assessment (the "IDRA").
	The IDRA considered the PSED in the context of building a new purpose-built building, utilising DLUHC funding;
	improving the public realm; and delivering a building that will comply fully with Disability Discrimination Act
	requirements and planning guidance.
	The assessment considered the consultation exercise undertaken for the Doncaster Town Deal project / Phase 1
	funding process in 2020 (Doncaster Community Engagement final Report) and the Socio Economic baseline study,
	commissioned in the development of the Town Investment Plan
	The IDRA concluded that the provision of new office space would be mainly of neutral impact on the people of
	Doncaster, particularly those with Protected Characteristics, along with some positives around improved

	environment, access and opportunity. The outcome of the assessment was that no further action needed to be taken
	at that time.
	The outcome of the IDRA was taken into account as part of the Officer Decision Record (dated 21 April 2023) that
	authorised the making of the CPO, as set out at paragraph 16 of 'Box 3' in that document.
	The assessment also considered the report submitted to cabinet in Nov 2022 which elected to: Seek to acquire by
	agreement with progression of a CPO in parallel. This avoids potential delay to the scheme and is the preferred
	option. The CPO process provides a statutory mechanism for objection and appropriate compensation, so that
	interest holders are not disadvantaged. CPO also allows the Council to override any third-party interests that burden
	the land and may prevent development. It also provides certainty in relation to highway land owned by the Council,
	but to which it does not hold all the relevant historical documents.
	The council Assets Team were instructed to work with the relevant parties in to acquire properties by agreement.
	Business Doncaster team have considered any specification requests, from the owners, when considering and
	offering new sites e.g. Car Parking Space requirements and accessibility requests.
11 October 2023	Planning Application Submitted – no objections, initial assessment stands
9 January 2024	Full Planning Committee – no representations, initial assessment stands
5 April 2024	Initial Equality Impact Assessment for the CPO Process undertaken – no further action required
	Noted that Socio-economic impact is positive
	The following reports were used to make the assessment: Doncaster Town Deal Initial Due Regard Assessment /
	Due Regard Statement Process Flow Chart / Doncaster Community Engagement Final Report,

The Council has received information, objections and concerns resulting from Taskmasters and Wolseley's objection to the CPO. These were

- Taskmaster:

- Objection Letter June 2023
- o Statement of Case March 2024
- Further info provided in Proof of Evidence of Andrew Bertman (March 2024)

- Wolseley:

• Objection Letter June 2023

Other consultations

- 2024 Full Planning Committee: 09/01/2024 no objections or representations for equality impacts
- 2024 Planning Application: 11/10/23 10/01/2024 23/02052/4FULM no objections or representations for equality impacts
- 2022 Cabinet Report to approve the commencement of a CPO 02/11/2022
- 2020 September December 2020; Final Report produced January 2021 captured Age, Gender, Ethnicity, Disability, Employment Status, Connection to Doncaster. Sentiment of overall projects was 49% positive; 34% negative; 16% Neutral

All the above has been taken into account and a further IDRA was undertaken on 5 April 2024 (as shown above) to ensure the position remained accurate and up to date. This returned a further assessment outcome that no further action was required.

For completeness, the Council is reviewing in any event as part of this assessment.

The Council continues to take steps to relocate businesses and individuals affected by the CPO process and can confirm that the issues raised will be considered again prior to any general vesting declaration to take control of the land, at that point in time.

Analysis of points raised as part of the CPO Inquiry

The specific information, objections and concerns resulting from Taskmasters and Wolseley's objection to the CPO considered as part of the IDRA on 5 April 2024 is set out below:

Taskmaster – Objection Letter 14 June 2023

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.

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 disproportionally.

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.

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.

Taskmaster Statement of Case - 1 March 2024

Assessment under the Human Rights Act and Public Sector Equality Impact

The Council's due regard statement does not provide sufficient detail to demonstrate that the Council carried an adequate assessment of the impact on the human rights of those affected by the CPO, prior to its making. Taskmaster provided, within its objections, various statistics relating to the makeup of its agency workers. No attempt has been

made to follow up on this information in order to assist the Inspector in carrying out their own assessment. It is therefore not possible for the Inspector to make a lawful determination of whether the exercise of the CPO powers are lawful and proportionate or of how the Council has engaged with its public sector equality duty.

In response to the points raised in objections about human rights and the public sector equality duties, the Council has repeated standard wording in paragraphs 13.22 to 13.36 and paragraphs 13.35 to 13.39 of its Statement of Case. The Council makes reference to consultation and enquiries but has not produced the results of these enquiries or any detail about them.

Taskmaster - Neil Bertman Proof of Evidence (March 2024)

There are 7 full time employees at Trafford Court. They have been with us from a range of 1 to 13 years. Our receptionist does not drive and relies on public transport to get to and from work, so we have had to consider her ability to get to the new office if a suitable one is found.

Wolseley Objection Letter - 13 June 2023

3) Loss of employment opportunities for longstanding employees – There are 12 permanent employees based at the Property. The length of employment for current employees ranges from 10 months to 35 years, with the average employment length being 12 years. Extinguishment of the branch is likely to result in long-term employees may lose their jobs if they cannot be transferred to other locations.

Furthermore, if alternative accommodation is found, employees at the Property may be unable to transfer if the alternative location is far from the Property. The properties that have been proposed by the Council have been unsuitable to date and would result in employees searching for alternative employment.

Interference with Human Rights / Public Sector Equalities Duty – We understand that the Council has undertaken a "Due Regard" assessment and extensive consultation into this area. The findings have not been published identifying

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the characteristics of those affected by the Scheme. Therefore, no justification has been provided to show that there is a justification for interfering with human rights.

As noted above, Wolseley is an employer to 12 longstanding staff members with a combined length of service of 138 years. We are unable to ascertain whether the future loss of employment opportunities at the Property have been fully considered in the Council's decision to make the Order.

We have reviewed the Cabinet report on the decision to make the Order and, although we acknowledge that there will be "direct benefits of increased employment at the Gateway site", the type of employment opportunities to be delivered by the Scheme are contrary to what is currently offered at the Property.

Outcome of analysis

The Council has considered these objections alongside the assessment made on 5 April 2024 which concluded the overall impact of the CPO would be neutral; also taken into consideration for both assessments was the Benefit Cost Ratio of the scheme and the wider socio and economic benefits of regeneration in the area. The Council have concluded that, taking into account the information provided as objections, the overall impact would remain neutral:

- Age
- Gender

The Council have taken steps to minimise the impact on those affected by the CPO process by offering alternative accommodation. The Council continues to take steps to relocate businesses and individuals affected by the CPO process and can confirm that the issues raised will be considered again prior to any general vesting declaration to take control of the land, at that point in time.

ACTION PLAN

The Council has to demonstrate how we met our legal Public Sector Equality Duty (Equality Act 2010). The three main elements of the Public Sector Equality Duty are: Eliminating discrimination, Promoting equality of opportunity and Fostering good relations. We need to provide evidence that we have given due regard to any potential discriminatory impact on people with protected characteristics in shaping policy, in delivering and making changes to services, and in relation to our own employees.

	Key Action	Expected Outcome	Actual Outcome
1.	Consultation Dec 2020	Positive	Positive/Neutral
2.	Economic Study baseline data	Positive socio economic	Tbc on completion of project
3.	Town Investment Plan	Positive – socio economic, economic, digital,	Doncaster Delivering Together - Great 8
		connectivity	expected outcomes
4.	Equality Data	Baseline	
5.	CPO Process	Neutral	
6.			

Consultation Profile

As part of your initial assessment you identified evidence/intelligence that supports your assessment of the impact of your proposal on different groups and triggered the need for further information and activity to manage/reduce the impact.

The Consultation Profile will show what consultation(s) you plan to do/ have done to understand the impact of your proposal. It is a living document and should be continually updated as and when required and will inform the content of your Action Plan.

Consultation; Who is the target	Plan	Consultation	Sept – Dec 2020
Who is the target	Desidents of the herough level residents level husinesses he		
	Residents of the borough, local residents, local businesses, po	otential investors	
audience?			
Proposed Method(s)	Commonplace website, promoted through social media and internal channels		
Consultation Analysis - Wi	hat did the consultation tell us?		
The graphs below provide a	demographic overview of those who responded:		

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Comments from the consultation

Services

- It is always a good idea to have multi-use buildings, particularly for the elderly. Accessibility is crucial for all age groups. Ground floor for public/ health services maybe
- Training facilities would probably get a lot of use since it's close to the station.

Environment

• Sounds and looks like a very progressive idea and should promote an attractive entrance to the town centre from the West side

• The existing buildings on this site are aesthetically very poor and replacing them with a more attractive building would certainly be an improvement. The new building in the artist's impression does not come across as "strongly reflecting its heritage surroundings", so the design definitely has to achieve that.

2 ND CONSULTATION				
Purpose of			Date of	
Consultation;			Consultation	
Who is the target				•
audience?				
Proposed Method(s)				
Consultation Analysis - W	hat did the consultation te	II us?		

FINAL IMPACT ASSESSMENT

Complete the section below prior to the final decision report to highlight the final expected impact.

Age	Neutral
Disability	Neutral
Gender reassignment	Neutral
Homelessness & rough	Neutral
sleepers	
Marriage & Civil Partnership	Neutral
Maternity & Pregnancy	Neutral
Race	Neutral
Religion or Belief	Neutral
Sex	Neutral
Sexual Orientation	Neutral
Socio economic	Positive
Veterans and their families	Neutral
Children in care/ leaving care	Neutral

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By signing this statement as complete, you are confirming that:

- 'you' have examined sufficient information across all the protected groups and used that information to show due regard to the three aims of the general duty;
- this has informed the development of the activity and consultation approach;
- this DRS has been to the relevant decision making meeting and the decision has been made;
- this DRS is approved for publication on the City of Doncaster Councils internet page

Assistant	
Director	
Date	

MONITOR AND REVIEW

If relevant, please provide information in the text box below on what processes/actions will be put in place to keep this 'activity' under review. For example, will progress be monitored/ reported to a board, scrutiny committee, project board etc. If the 'activity' has a time frame what is the planned review date etc.

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