

**CABINET
6 MAY 2025**

HIGH STREET RENTAL AUCTIONS

**Responsible Cabinet Member –
Councillor Chris McEwan, Economy portfolio
Councillor Mandy Porter, Resources portfolio**

**Responsible Director –
Mike Poulter, Executive Director Economy and Public Protection**

SUMMARY REPORT

Purpose of the Report

1. To seek member approval to begin community engagement relating to the designation of a High Street Rental Auction (HSRA) area, to delegate powers to designate the final HSRA area and to delegate powers to implement individual rental auctions to the Director of Economy and Public Protection.

Summary

2. High Street Rental Auctions provides local authorities with a new power to require landlords to rent out persistently vacant commercial properties to new tenants. The Council is an Early Adopter of the HSRA Programme. HSRA can be used where attempts to work proactively and engage with landlords in bringing vacant premises back into use have not been successful. Not all properties or circumstances will be eligible. New Burdens Payments are available to fund some aspects of the process. HSRA follows a strict timetable and process set out in legislation, regulation and guidance.

Recommendations

3. It is recommended that :-
 - (a) Cabinet authorises undertaking a community engagement exercise on the draft High Street Rental Auction (HSRA) designated area, detail attached at **Appendix 1 and 2**.
 - (b) The draft HSRA designation and community engagement information is publicised via the Council's website, social media, local newspaper and direct mail to landlords of currently vacant properties within the draft area.
 - (c) The engagement period remains open for a period of 28 days to allow members of local communities and other stakeholders sufficient time to submit comments.

- (d) The draft HSRA designation is amended and finalised in the light of comments received during the community engagement period.
- (e) Approval of the final HSRA designation and any future variations to the HSRA designation is delegated to the Executive Director of Economy and Public Protection, in consultation with the Deputy Leader and Economy Portfolio Holder and Cabinet Member for Resources
- (f) Approval to implement each specific High Street Rental Auction is delegated to the Executive Director of Economy and Public Protection in consultation with the Deputy Leader and Economy Portfolio Holder and Cabinet Member for Resources
- (g) Approval to undertake future community engagement exercises pursuant to a variation of the HSRA designation is delegated to the Executive Director of Economy and Public Protection, in consultation with the Deputy Leader and Economy Portfolio Holder and Cabinet Member for Resources
- (h) Approval to draw down and administer New Burdens Payment

Reasons

4. The recommendations are supported by the following reasons :-

- (a) Whilst Darlington's vacancy rates are low compared to the North East average, there are several long-term vacant properties within the proposed HSRA area which could become occupied as a result of this new power.
- (b) Reducing high street vacancies aligns with Darlington Borough Council's Town Centre Strategy and will contribute to the overall vitality and sustainability of the town centre.
- (c) HSRA is a last resort which applies to eligible properties which have been unoccupied for 12 months or at least 366 days within a 24-month period and that occupation of the premises would be beneficial to the local economy, society, or environment.
- (d) It is a legislative requirement the council must publish any proposed high street designation and should invite comments from the local community and any other stakeholders who may be affected via email and post and for no less than a period of 28 days. The recommended use of a variety of publication methods aims to reach as many of the affected parties as possible.
- (e) Delegation of powers to approve each auction and the final HSRA designation area following the community engagement exercise will enable the council to begin implementation at pace. It is envisaged that community engagement comments will be geographical in nature and any subsequent amendment to the draft HSRA designation boundary at Appendix 1 will not be materially significant to finalisation of the HSRA area and implementation.

Mike Poulter
Executive Director Economy and Public Protection

Background Papers

No background papers were used in the preparation of this report

Sarah Wayman and Andrew Perkin - Extension 6308

Council Plan	<p>All reports should detail the relevance of the proposed decision(s) to the Council Plan and its priorities (adopted by Council in July 2024).</p> <p>The priorities are:</p> <p>ECONOMY - The new HSRA powers enable the Council to bring vacant business premises back into use in support of the economy.</p> <p>HOMES –The new HSRA powers can facilitate some high street properties, where appropriate, to be converted to residential use.</p> <p>LIVING WELL –N/A</p> <p>CHILDREN AND YOUNG PEOPLE –N/A</p> <p>COMMUNITIES –Bringing vacant premises back into use will provide natural surveillance, leading to safer areas and a vibrant town centre.</p> <p>LOCAL ENVIRONMENT – The local environment will be visually improved with occupied high street premises.</p>
Addressing inequalities	Not applicable
Tackling Climate Change	<ul style="list-style-type: none"> • The proposal will result in increased carbon emissions as vacant premises using no energy will begin using energy. • Landlords must make eligible properties capable of being let, which includes meeting the minimum Energy Performance criteria under the Minimum Energy Efficiency Standard (MEES). • Improvements to vacant properties under MEES will mitigate the climate change risks.
Efficient and effective use of resources	<ul style="list-style-type: none"> • These new powers present additional officer workload as a result of the decision and there may be potential impact of this on the speed of provision of overall services by Estates and Property.

	<ul style="list-style-type: none"> Impact is mitigated by New Burdens Funding provided by Government in respect of some of the aspects of the process, which allows outsourcing of parts. The funding can be drawn down in tranches.
Health and Wellbeing	A vibrant town centre, with minimal vacant units, will contribute in general to the wellbeing of residents.
S17 Crime and Disorder	Vacant properties attract crime and disorder. The new powers will help to mitigate the number of vacant properties in the town centre.
Wards Affected	This requires a simple analysis of whether there are particular wards affected more than others, or whether all wards are affected equally.
Groups Affected	The decision will affect landlords of eligible vacant properties within the HSRA designation. These landlords will be engaged by the Council to attempt to let their properties, and if the property remains vacant and no relevant reason for the vacancy is apparent, then the Council will be able to auction off a lease of that property with or without the landlord's involvement or permission.
Budget and Policy Framework	This report does not recommend a change to the Council's budget or policy framework.
Key Decision	<p>Yes</p> <p>It is likely to be significant in terms of its effects on communities (particularly landlords) living or working in an area comprising one or more wards in the Borough.</p>
Urgent Decision	This report is not an urgent decision
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers

MAIN REPORT

Information and Analysis

5. The High Street Rental Auction (HSRA) provides local authorities with a new power to require landlords to rent out persistently vacant commercial properties to new tenants, such as local businesses or community groups. HSRA can be used where attempts to work proactively and engage with landlords in bringing vacant premises back into use have not been successful.
6. HSRA is a statutory mechanism introduced by the Levelling-up and Regeneration Act 2023 and detailed within the High Street Rental Auctions (England) Regulations. The non-statutory guidance was published on 2 December 2024.
7. The legislative framework establishes clear procedures and conditions that councils must follow when implementing HSRA, ensuring vacant commercial properties are efficiently and transparently returned to active use.
8. The Council was confirmed as an Early Adopter of the HSRA Programme, by the Ministry of Housing, Communities and Local Government (MHCLG) at a launch event held on 21 November 2024 in Wolverhampton. Darlington has been identified alongside Mansfield, Bassetlaw, Bournemouth, Christchurch and Poole Councils as Early Adopters. A further tranche of Early Adopters was announced by MHCLG on 6 March 2025 being Barnsley Metropolitan Borough Council, Broxtowe Borough Council, Camden London Borough Council, Hillingdon London Borough Council, Lichfield District Council, North Northamptonshire Council, North Somerset Council and Westminster City Council.
9. The proposed HSRA aligns with existing policies outlined in the Council's Town Centre Strategy and the Local Plan, both emphasising regeneration, vibrancy, improved occupancy rates, and economic resilience.

HSRA Process Summary

10. Areas which may require High Street Rental Auction powers must first be defined, designated and published, including a 28-day minimum community engagement period.
11. A vacancy register relating to the designated HSRA must be compiled and maintained as part of the designation exercise.
12. Following designation of a HSRA area, the Council should engage with the landlords of vacant properties, if it has not done so already, to work with them to identify reasons for the vacant and alternative solutions. Should landlords not comply with responses to requests for information, this will constitute a criminal offence and a fine up to £2,500.
13. HSRA is not suitable for all properties. For example department stores, properties subject to complex redevelopment plans and properties with very high refurbishment costs.
14. If a property is eligible for auction, a strict timetable for serving notice on the landlord, surveying the property and preparing the auction pack follows. The process begins with a 10-12 week Notice Period and then a 12-Week Auction Period.

15. Prior to auction, the Council will survey the property and compile a list of any repair works required prior to letting. The landlord must carry out the repair works prior to the letting.
16. Following the auction, the landlord and successful tenant will enter into leasing contracts.

Designation Process and Approach

17. The Council must designate a specific area deemed appropriate for High Street Rental Auction. The area must be defined with a plan and by street names and be subject to a public engagement exercise.
18. The proposed HSRA designation area is shown at Appendix 1.
19. The proposed designation reflects the Town Centre as defined in the adopted Local Plan ("TC1", as defined here: <https://www.darlington.gov.uk/media/18086/adopted-darlington-local-plan-feb22-r.pdf>, map 10);
 - (a) Plus, the section of Bondgate between Bondgate roundabout and the junction with Woodland Road;
 - (b) Plus, the section of Victoria Road from Feethams roundabout to the western entrance of Bank Top station.
20. The designated area can be revised or widened at a later date.

Vacancy Register

21. Prior to designating a HSRA, the Council is encouraged to establish and maintain a comprehensive vacancy register detailing vacant commercial units, vacancy duration, previous occupancy history, property condition, and reasons for ongoing vacancy within the proposed HSRA designated area.
22. Due diligence surrounding the nature and duration of each vacancy will be carried out by collecting data from the Land Registry, local business rates records, and direct communications with property owners.
23. This information will be analysed to identify properties meeting the eligibility criteria and therefore suitable for proceeding to a HSRA

Public engagement / consultation

24. In line with the guidance, the local authority must publish any proposed high street designation in such a way it brings it to the attention of—
 - (a) Members of the local community in relation to the high-street or area concerned, and
 - (b) Any other person who may, in the opinion of the local authority, be affected by the designation, or by the variation or withdrawal of the designation.

25. Local authorities should invite comments from the local community via email and post and for no less than a period of 28 days. It will be publicised via the Council's website, social media, press release and direct mail to landlords of currently vacant properties within the draft area
26. The proposed text for the consultation is shown in Appendix 2.
27. In addition, it is intended to engage with landowners following designation and before service of notices via preliminary letters issued, introducing the HSRA concept.
28. Following the public engagement exercise, any boundary changes suggested by stakeholders may be considered prior to final designation of the HSRA area.
29. Following designation of the area, the Council may then begin the process for auctioning leases of persistently vacant properties.

Eligibility Criteria

30. To use a HSRA the following eligibility criteria must be considered:
 - (a) A property must have been vacant for a year or 366 days in the previous two years;
 - (b) Occupation of those premises for a suitable high street use would be beneficial to the local economy, society or environment
 - (c) Efforts to proactively engage the landlord must have been made before using HSRA
 - (d) The property is not vacant due to a valid reason, e.g. there is no market for it, or it is awaiting redevelopment etc.
 - (e) Costs to bring property back into repair are not significant.
31. Follow-up interviews are conducted to identify landlord concerns and opportunities for collaboration.
32. Evidenced based decision making, in line with the Town Centre Strategy, will be used to decide which properties are chosen for auction.

Implementation of a High Street Rental Auction

33. The Council should arrange a survey of the identified premises to:
 - (a) Consider suitability of the property for HSRA
 - (b) Consider the Energy Performance Certificate requirements (and commission one if necessary)
 - (c) Draw up a list of works required to bring the premises up to the minimum standard for HSRA

- (d) The minimum standard is defined in the guidance and ensures the property is clear, safe, secure, watertight and operational.
- (e) The costs of these surveys are unrecoverable should the landlord let the premises prior to the service of a final notice
- (f) These pre-tenancy works will be carried out by the landlord as part of the tenancy contract (agreement for lease)
- (g) The Council should attempt to mutually agree access for surveys with the landlord. Where this is not possible, powers to enter and survey land without landlord consent can be used.

34. A strict timetable governs the pre-auction “Notice Period” process:

Week 1 – 8	Council serves initial letting notice on landlord. Landlord has 8 week grace period to let or licence the property with consent of Council. Landlord may sell the property, but initial notice remains in place. Initial notice registered as local land charge.
Week 9-10	Council serves final letting notice on landlord which comes into effect after 14 days. Final notice registered as local land charge. Landlord may not let or carry out works to the property without consent of the Council. Criminal offence for landlord to contravene the restriction.
Week 11-14	Landlord may serve a counter notice within 14 days of the final notice, opposing the letting on specified grounds.
Week 15-16	Council has 14 days to consider counter notice and withdraw / proceed
Week 17-18	Landlord can appeal to county court if Council does not withdraw
	County court will decide to confirm or revoke

35. Assuming the final notice is not withdrawn by the Council following counter-notice or successfully appealed, a 12 week period begins to auction the premises and exchange the tenancy contract. The “Auction Process” is summarised below:

Week 1	Council to carry out searches and compile auction pack. Council to serve notice of intention to go to auction on the landlord.
Week 2	Council to provide the landlord with details relating to the tenancy contract and tenancy. Landlord to provide the local authority with pre-contract enquiry details, i.e. Commercial Standard Property Enquiries (CPSEs), proof of title and safety certificates. Failure of the landlord to comply is a criminal offense.
Week 3	Landlord to make certain specified representations in response to tenancy and contract information provided.
Week 4	Council to finalise tenancy and contract, taking into consideration landlord representations. Council to issue auction pack to include marketing brochure, information and representations from the landlord and legal, survey and search fees which are payable by the tenant.
Week 5-9	Marketing period of at least 5 weeks with mandatory requirements to include a prominent link on Council website and advertising on a leading website such as Rightmove, Zoopla or Property Link.
Week 10-12	The Council to serve all bids on the landlord in week 10, as well as any late bids in week 11. This is to give the landlord more time to consider bids as they come in. The landlord must advise the Council of the preferred bidder within two days of receiving the late bids. The Council will inform the successful party and provide contracts as soon as possible.

36. There are specific requirements concerning how prospective tenants may bid for a property:

- (a) Only one bid can be submitted
- (b) The annual rental offer exclusive of VAT must be stated
- (c) The proposed use must be provided
- (d) Signed tenancy contract (agreement for lease) included
- (e) Proof of identity of bidder provided
- (f) Time limited; submissions to be received no later than tenth week

37. All bids must be recorded and logged on a register. The Council will validate bids, and inform prospective tenants where their bid is invalid as soon as possible.
38. The landlord will make the final decision on the preferred tenant bidder. If the landlord does not make a decision, the Council will accept the highest bid, or the most reasonable bid if the highest bidder is not viable. The Council may also choose not to select a bidder.
39. The successful bidder will enter into two contracts following the auction:
 - (a) A tenancy contract (also known as an agreement for lease)
 - (b) A tenancy (lease)
40. The tenancy contract will cover the landlord's obligations in relation to the works they must carry out at their own cost and which are required to bring the property up to Minimum Standard. The landlord must carry out these works otherwise they will be in breach of contract, and the successful bidder will not be bound to enter into a tenancy (lease) until the works are completed. The tenant will be able to exercise "step-in rights" in order to carry out the works and recover the costs through rent, other remedies include liquidated damages.
41. Standard lease templates are provided for auction leases with the following notes:
 - (a) The Council can set the use clause of the property, and include user restrictions
 - (b) Planning consent and listed building consent will apply as usual for works and development
 - (c) Permitted Development Rights to temporarily change a different existing use to a high street use will apply if required
 - (d) The Council can set the tenancy length between one to five years, and decide which rights should be granted to the tenant
 - (e) The Council can set either no service charge, a standard service charge or bespoke service charge where information has been provided by the landlord
 - (f) There is no automatic right to renew the lease
 - (g) The tenant may fit out the property at their own expense and receive a 4 week rent free period
42. The legislation provides that the local authority has the power to grant the tenancy contract as though they were the landlord. In entering into the tenancy contract, the local authority must act in its own name, but with an indication that it is acting so as to bind the landlord rather than itself. The tenancy contract has effect as if it were entered into by the landlord of the premises instead of the local authority. It is anticipated that this power would only be used in extreme circumstances as an absolute last resort.

Financial Implications

43. Funding has been made available from central government where new or amended legislation is assessed to have a financial burden on local authorities. The New Burdens Payment will compensate local authorities for costs incurred in the implementation of new powers during a three-year transition period.
44. To ease resource issues, some elements of the HSRA process can be outsourced to external consultants provided that each step is signed off by the Council. The vacancy register, some legal work and the auction and marketing costs are covered by the New Burdens Payment.
45. If an initial notice has been served and the Council does not progress the case to the marketing stage, it is entitled to draw down £1,791. This is to cover the legal costs incurred in issuing the initial notice and to gain access to the premises.
46. Where the High Street Rental Auction enters the marketing stage, the Council can draw down the full £5,223 to cover the legal, marketing and auction costs.
47. Costs borne by the tenant are legal conveyancing, searches, surveys, including a schedule of condition and fit out costs.
48. Costs borne by the landlord are works to bring the property up to Minimum Standard.
49. Should the vacancy register show that the vacancy rate is 8% or higher, refurbishment costs will also be eligible for funding.
50. Applications for the New Burdens Payment opened on 15 January 2025 and will close on 14 January 2028.
51. Criteria for payments include documented evidence of administrative actions, engagement activities, enforcement measures, vacancy register preparation, and reporting requirements as mandated by central government guidelines.
52. Some elements are not covered by the New Burdens Payment such as legal costs for implementation of a new power, form of designation, service of notices and registration of land charges, costs to run the public engagement exercise and in-house surveyor time to project manage the scheme. Legal fees are estimated at £2000 for the form of designation and £2000 per property for associated advice and land charges.
53. As this is new legislation and the number of properties and actions required to bring those properties into the HSRA are currently unknown, the full cost to the Council cannot be determined at this stage. It is clear that the work required to undertake the actions within the legislation will require significant resources and due to the points noted above, and the fixed nature of the New Burdens funding, it is assumed at this stage that the funding will be insufficient to cover the additional costs and therefore will be a budget pressure. During the first year of operation of the new legislation the costs and income received should become clearer and any additional costs will need to be addressed through future budget setting.

Legal Implications

54. The HSRA process will be carried out in accordance with the relevant legislation referenced in paragraph six of this report. External legal advice has been sought.

HR Implications

55. There are no HR implications.

Estates and Property Advice

56. Comments from Estates and Property are embedded in the report, as author.

Procurement Advice

57. Procurement will be carried out in accordance with the Procurement Act 2023.

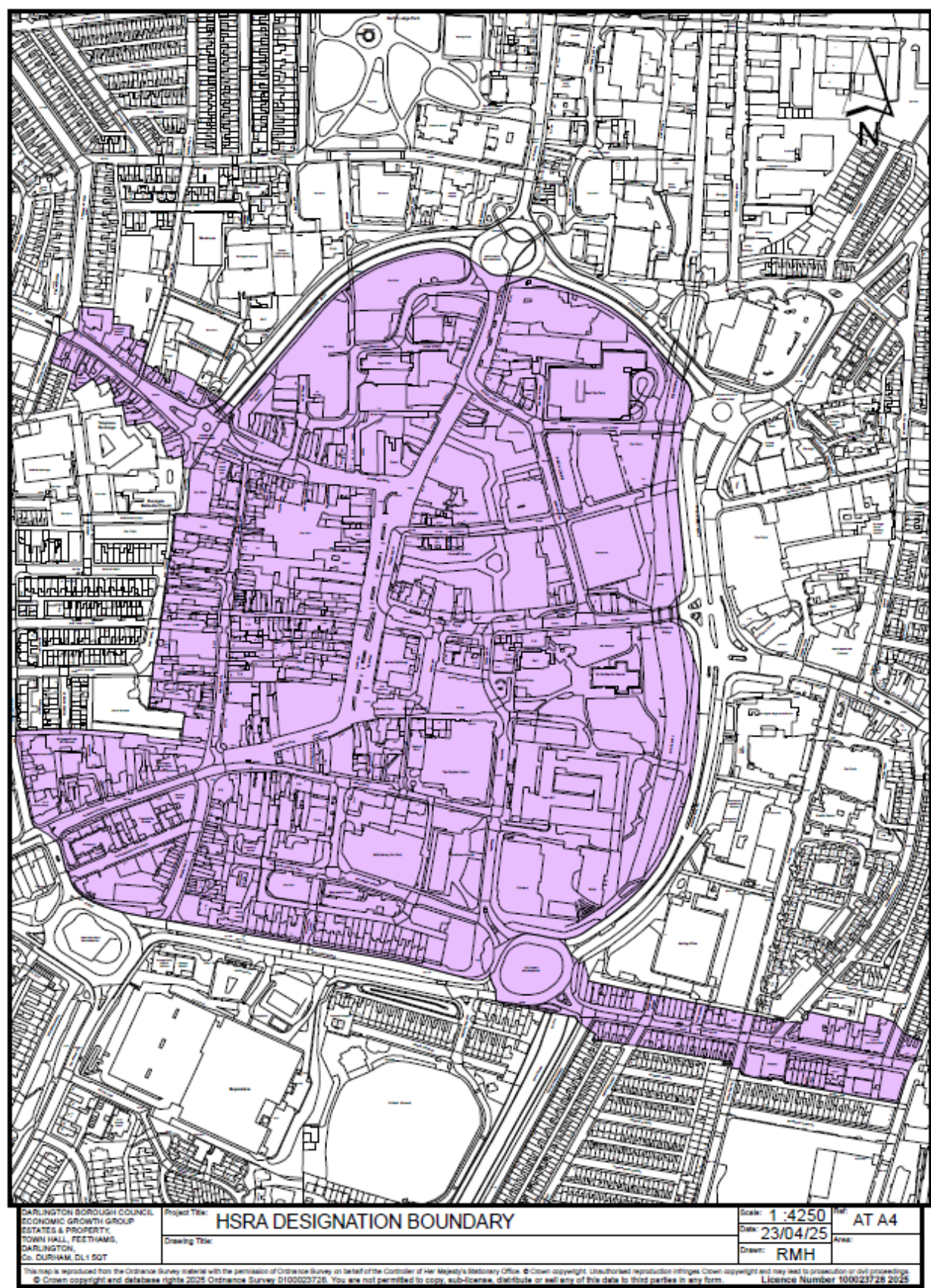
Carbon Impact and Climate Change

58. The proposal will result in increased carbon emissions as vacant premises using no energy will begin using energy. Landlords must make eligible properties capable of being let, which includes meeting the minimum Energy Performance criteria under the Minimum Energy Efficiency Standard (MEES). Improvements to vacant properties under MEES will mitigate the climate change risks. The scheme will not affect the Council's carbon emissions target but it will impact on the overall Borough emissions – which are tracked by the Council. Businesses bringing vacant properties back into use can be signposted to the webpage <https://www.darlington.gov.uk/climate-change-and-sustainability/business-and-climate-change/> for links to advice on mitigating emissions, as well as the Business Resilience Manual <https://www.darlington.gov.uk/media/13726/business-resilience-manual-vs2.pdf> . MEES does not cover resilience or adaptations to climate change but with increasing flood risk and potential overheating it is something that will need to be considered.

Equalities considerations

59. There are no equalities considerations.

Proposed High Street Rental Auction Designation Boundary for inclusion in the public engagement exercise



High Street Rental Auction Public Engagement and Consultation

Darlington Borough Council are consulting with businesses and premises owners on the recent permissive power known as High Street Rental Auction.

High Street Rental Auctions (HSRA) is a new power for local authorities to require landlords to rent out persistently vacant commercial properties to new tenants such as local businesses or community groups.

Darlington Borough Council have designated an area of Darlington Town centre as shown in the plan below.

The new legislation allows councils to step in when landlords leave commercial properties vacant for over a year. Not all properties or circumstances will be eligible. Local authorities will have the power to auction leases for vacant units. The HSRA system offers local authorities a new tool for regenerating town centres and reducing vacancies.

Darlington Borough Council may seek to exercise the right to pursue a High Street Rental Auction procedure on a commercial property or properties in the future, in-line with government guidance which is documented here: [High Street Rental Auctions: Non-statutory guidance - GOV.UK](#)

Anybody wishing to comment upon the proposals can do so by emailing:
business.support@darlington.gov.uk

The following map shows the proposed area in Darlington Town Centre where we will seek to utilise the High Street Rental Auction powers. Do you agree with the proposed area?

[Map included as per Appendix 1]