

**THE DARLINGTON BOROUGH COUNCIL
(SNIPE LANE) COMPUSLORY PURCHASE ORDER 2020**

DRAFT

STATEMENT OF REASONS

Statement of Reasons

of

Darlington Borough Council

for the making of a Compulsory Purchase Order under section 226(1)(a) of the Town
and Country Planning Act 1990 and the Acquisition of Land Act 1981

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DATE: [] 2020

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STATEMENT OF REASONS

1 INTRODUCTION

- 1.1 Darlington Borough Council ('the Council') resolved to make the Darlington Borough Council (Snipe Lane) Compulsory Purchase Order 2020 ('the Order') on [] 2020. The land to be acquired pursuant to the Order is referred to in this statement as the 'Order Land'.
- 1.2 The Order is made under section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) to acquire the land required to facilitate the development of adjacent land for housing development (the 'Scheme'). The Order Land will after acquisition become in part adopted public highway (road), and in part public footpath, but will also be an integral part of the Scheme.
- 1.3 The housing development in question is a significant development, which will provide a substantial number of much needed affordable dwellings in the Borough, together with market housing. The Scheme delivery of 449 additional residential dwellings has the potential to maintain and develop a strong and vibrant community, in a high-quality built environment. The construction of a mix of 2, 3, and 4-bedroom dwellings, and a 65% majority of affordable housing will help to increase the range and type of dwellings and tenures available within the locality.
- 1.4 A detailed depiction of the public rights of way shown the layout map at Appendix 2, which shows the locations of:
 - Snipe Lane; Footpath 17; Footpath 14;
 - Proposed new lengths and width of footpaths/cycleways; and
 - Proposed new estate and access roads.
- 1.5 The Scheme, including development of the Order Land, promises significant environmental and safety improvements to Snipe Lane itself.
- 1.6 Acquisition would allow dedication to public use and adoption of the relevant parts of Snipe Lane as shown on the layout map at Appendix 2. The Scheme

as a whole, including the improvements to the Order Land, cannot be realised without acquisition of the Order Land by the Council.

- 1.7 This Scheme will bring economic, social and environmental benefits to the Borough. The Scheme has a high likelihood of being delivered if the Order Land can be acquired to provide related access. There are no in principle reasons why planning permission cannot be granted, and financial provision for the Scheme is secure. The Council considers that there is a clear and compelling case in the public interest to acquire the Order Land.
- 1.8 The total area of the Order Land is approximately [5,764] square metres.
- 1.9 The schedule to the Order (the 'Schedule') does not list any owners, lessees, tenants or occupiers of the Order Land as to the best of the Council's information, the land is in unknown ownership. As there is nobody with whom to negotiate, it is considered the only means of securing title to the Order Land to facilitate the Scheme is through compulsory acquisition.
- 1.10 The map to the Order (the 'Order Map') identifies the Order Land and highlights the land proposed to be acquired in pink, in two plots (marked '1' and '2'). Individual plot boundaries and numbers on the Order Map correspond with those in first column of the Schedule.
- 1.11 The Order has been submitted to the Secretary of State for Housing, Communities and Local Government for confirmation pursuant to the Acquisition of Land Act 1981. If confirmed by the Secretary of State, the Order will enable the Council to acquire the Order Land compulsorily.

2.0 ENABLING POWERS

- 2.1 Section 226(1)(a) of the Town and Country Planning Act 1990 empowers the Council to acquire compulsorily land that the Council considers will facilitate the carrying out of development, redevelopment or improvement on or in relation to that land, where the Council thinks that the development, redevelopment or improvement in question is likely to contribute to the achievement of any one or more of the following objects:
 - (a) the promotion or improvement of the economic well-being of the Council's area;
 - (b) the promotion or improvement of the social well-being of the Council's area; and
 - (c) the promotion or improvement of the environmental well-being of the Council's area.
- 2.2 The acquisition of the Order Land pursuant to section 226(1)(a) to facilitate the development of the Scheme (including the Order Land) is considered

appropriate, given the benefits that the Scheme will bring to the Borough, and bearing in mind that it is not possible to acquire by agreement all interests that are required for the Scheme given that the Order Land is in unknown ownership.

- 2.3 The Council has considered the advice contained in the DCHLG Guidance (2019).
- 2.4 The Council is satisfied that section 226(1)(a) is the appropriate enabling power to rely upon pursuant to paragraphs 93-106 (Tier 2 Enabling Powers) of the DCHLG Guidance.
- 2.5 The Council recognises that a compulsory purchase order can only be made if there is a compelling case in the public interest (paragraphs) which justifies the interference with the human rights of those with interests in the Order Land.

3. THE ORDER LAND

- 3.1 The Order Land as to one plot lies within or immediately adjacent to a linear way known as Snipe Lane, and as to the other plot within an un-named linear way running north-south and joining Snipe Lane. The part of Snipe Lane within the Order Land is orientated east-west.
- 3.2 The Order Land is in part surfaced with tarmac, but this is not well-maintained and there are significant potholes along the, and variable surfaces.
- 3.3 Snipe Lane is depicted and named as a 'Bridle Road' on the first edition (and subsequent editions) of the 6-inches to 1-mile scale Ordnance Survey Map. It is shown joining Neasham Road (as it still does) to the east, and to the west it runs beneath the railway, after which, in part, it is depicted by dotted lines, rather than clear boundaries.
- 3.4 Current extracts from the definitive map maintained by the Council, together with the register entry, are appended to this Statement at Appendix 3. It will be seen that there is footpath right, but no bridleway (or other rights) recorded. The Council's Rights of Way officer confirms that there is no other information known to him that specifies the width of the public right in Snipe Lane.
- 3.5 The schedule to the Order (the 'Schedule') describes the land to be acquired, including its extent, orientation, and area. No owners or persons with a legal interest are known.
- 3.6 The map to the Order (the 'Order Map') depicts in pink the Order Land, in two plots, marked '1' and '2'. Individual numbers on the Order Map correspond with those in first column of the Schedule.

- 3.7 The Council Officers has investigated the legal status of Snipe Lane, including taking Counsel's advice on the interpretation of the information available to them.
- 3.8 From evidence on historic maps and on the ground, the public right in Snipe Lane is likely to extend to the full width of the lane, at least in parts. It is a moot point whether the footpath is 'adopted' as publicly maintainable by the Council, but on balance it is likely that statutory and other presumptions will apply to make it so. However, no 'higher' public rights can be proved.
- 3.9 Historic maps refer to the part of Snipe Lane both to the east and west of the old railway line, as 'Bridle Way', but although clearly of sufficient width to be used by horses, it is unclear whether such a right over the lane was ever more than a private right of way. A similar interpretation applies to the right to use vehicles, including motor vehicles.
- 3.10 In relation to rights for vehicles, Snipe Lane is not adopted as publicly maintainable by the Council.
- 3.11 Neighbouring landowners, including the Council, therefore seem to have private rights on foot (and other modes of transport), to use Snipe Lane for access to their property. The fact remains however that these private rights are not sufficient to permit dedication to public use by the Council of the relevant parts of Snipe Lane. Only the freeholder is able to make such a dedication under highways law, and the neither the Council nor any other person is currently able to demonstrate freehold title to the land under Snipe Lane.
- 3.12 The Council does have freehold title to all of the land either side of and immediately adjacent to the relevant parts of the Order Land, and this ownership gives rise to a presumption that the Council owns the land under the lane. However, this presumption is a rebuttable one: if another person or body can show a freehold title over any part, the Council's claim would be seriously undermined. This is not an adequate basis on which to implement a develop a significant development scheme.
- 3.13 If the land cannot be dedicated to public use then it is difficult to adopt, and adoption is considered necessary by the Council to provide the benefits of the Scheme.
- 3.14 The Highways Act 1980 (section 228) contains a potential alternative method of adoption. The alternative involves the construction of works over the relevant parts of Snipe Lane by a person (a non-public body) other than the Council, and then for the Council to treat the constructed road as a 'private street' and serve notice on the frontagers, to the effect that the 'private street' is to be adopted. Landowners can object, but if there is no objection, or objections are overruled by the Magistrates Court, the street can be adopted. However, Counsel has advised that Snipe Lane cannot be considered a 'private street' given the public right of way on foot that runs across it, and the section 228 procedure is therefore unavailable.

- 3.15 The benefits of acquisition of land in Snipe Lane are that a clear title can be secured, so permitting full dedication of the rights required for the roads, paths and other access to the Scheme; such rights would not need to be to the exclusion of any existing private rights and would permit new public rights of way, a cycleway, road, and related planting, surface and safety enhancements (see the plan at Appendix 2).

4.0 INTERESTS IN AND OVER THE ORDER LAND

- 4.1 Substantial efforts have been made by officers to identify owners of the Order Land but have not been successful to-date. The Order Land is considered therefore to be without an owner. Adjacent landowners other than the Council appear to use and benefit from private rights over the lane (including with vehicles), but there is no evidence of title.
- 4.2 Further efforts to identify any owner of the freehold to the land under the lane will continue to be made.
- 4.3 The Council has freehold title to the land either side of the relevant parts of the Order Land, and this ownership gives rise to a presumption that the Council owns the land under the lane, but this presumption is a rebuttable, and so is not considered a secure basis on which to rely for one of the main accesses to the Scheme.
- 4.4 Neighbouring landowners, including the Council, seem to have private rights on foot and by all modes of transport, to use Snipe Lane for access to their adjacent property. However, these private rights are not sufficient to permit dedication to public use by the Council of the relevant parts of Snipe Lane. Only the freeholder is able to make such a dedication under highways law, and the Council cannot unequivocally demonstrate freehold title to the land under Snipe Lane.

5.0 SPECIAL CONSIDERATIONS AFFECTING THE ORDER LAND

- 5.1 There is no special category land within the Order Land, and no special considerations.
- 5.2 The Council has identified all the statutory undertakers affected by the Order and where the proposed development will interfere with any existing utilities or services in or around the vicinity of the Order Land the Council will enter into wayleave agreements to protect or, if necessary, relocate their equipment or services.
- 5.3 No operational land of any statutory undertaker is within the Order Land, or the Scheme.

5.4 There is no land within the Order Land that:

- is owned by another local authority;
- is Crown land;
- is owned by the National Trust;

or which forms part of a common, village green, open space land or fuel or field garden allotment.

5.5 None of the following is located within the Order Land:

- a listed building;
- a scheduled monument; or
- a protected tree.

Neither the Order Land nor the Scheme land lies within a Conservation Area.

6.0 NEGOTIATIONS FOR ACQUISITION OF THE ORDER LAND

6.1 There have been no negotiations for the acquisition of the Order Land as the Councils has not been able to identify an owner of the Order Land, or any part of it.

7.0 JUSTIFICATION FOR MAKING THE ORDER

7.1 A description of the Scheme to which the Order relates is described in the next section of this Statement of Reasons. In accordance with DCHLG guidance the Council has considered a number of issues in deciding that the making of the Order is justified.

7.2 The following advice appears in DCHLG guidance (paragraph 2).

“Acquiring authorities should use compulsory purchase powers where it is expedient to do so. However, a compulsory purchase order should only be made where there is a compelling case in the public interest.

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.

Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. However, if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost. Therefore, depending on when the land is required, it may often be sensible, given the amount of time required to complete the compulsory purchase process, for the acquiring authority to:

- plan a compulsory purchase timetable as a contingency measure; and
- initiate formal procedures”.

7.3 The guidance goes on to say that, as an overarching consideration:

“A compulsory purchase order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, 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, DCHLG Guidance)

The Council’s consideration of the Human Rights effects of making the Order are discussed at paragraph 11 of this Statement of Reasons.

7.4 In the context of the overarching consideration, the Council as paid particular attention to the following issues:

Whether the purpose for which the land is being acquired fits in with the adopted planning framework for the area;

- The extent to which the Scheme would contribute to the achievement of the promotion and/or improvement of the economic, social or environmental well-being of the Council's area;
- The potential financial viability of the Scheme, general funding intentions and the timing of available funding;
- Any impediments to implementation and whether the Scheme has a reasonable prospect of going ahead;
- Whether the purposes for which the proposed Order Land is to be acquired could reasonably be achieved by any other means.

7.5 The Council’s view on these issues is as follows:

7.6 The Scheme meets the Council’s planning objectives and provides significant housing benefits, thereby contributing significantly to the improvement of the economic and social well-being of the area.

- 7.7 The Scheme has been progressed in consultation with Council planning officers and is considered to be compliant with national policy contained in the National Planning Policy Framework (NPPF).
- 7.8 With regard to Local Planning Policy, the Darlington Housing and Employment Land Availability Assessment (HELAA) was completed in March 2018, and the proposed development site falls within site reference 243 of that Assessment. The proposed development site therefore falls within land suitable for housing.
- 7.9 The Darlington Local Plan (draft 2016, consultation closed 2018) is still emerging.

The Development Plan for the area within which the application is located currently consists of the following core strategies:

Core Strategy Policy CS2: Achieving High Quality, Sustainable Design

Core Strategy Policy SC10: New Housing Development

Core Strategy Policy CS11: Meeting Housing Needs

Core Strategy Policy CS15: Protecting & Enhancing Biodiversity & Geodiversity

Policy CS19: Improving Transport Infrastructure and Creating a Sustainable Transport Network

- 7.10 The Scheme is designed to be in accordance with all of the policies above, and as such would be 'in accordance with the development plan', and unless other material considerations indicate to the contrary planning permission should be granted.
- 7.11 The planning summary in the submitted Planning Statement notes the following points.
- 7.12 The layout affords an overall development that is socially inclusive, well connected and provides and promotes cohesion with the neighbouring South Darlington suburbs.
- 7.13 The application site is located on the edge of a well-established residential area and is located within 1km to Darlington Town Centre and other local facilities. The site is also accessible by both private and public transport with a new bus route being introduced into the Scheme.
- 7.14 This Scheme will bring economic, social and environmental benefits and the proposals represent sustainable development and should benefit from the presumption in favour of sustainable development.
- 7.15 The delivery of 449 additional residential dwellings has the potential to maintain and develop a strong and vibrant community, in a high-quality built environment. The construction of a mix of 2, 3, and 4-bedroom dwellings, and

a 65% majority of affordable housing will help to increase the range and type of dwellings and tenures available within the locality.

- 7.16 The Scheme will be a positive contribution to the creation of a mixed and balanced community, as well as meeting identified housing needs within local community of Darlington. The proposal will also contribute towards Darlington Borough Council meeting their housing land supply, and would assist Darlington with providing sustainable, high quality family accommodation to meet such needs in the Council's area.
- 7.17 The Scheme will make a positive contribution towards the quality of the built environment of the area through the careful design and layout of the proposed dwellings and amenity space.
- 7.18 The Scheme's landscaping proposal would also deliver a high-quality setting which corresponds with the requirements set out in Policy CS15 and NPPF part 16. This involves:
- (a) Retention of existing hedgerows and mature trees along the watercourse and access roads to create green corridors linking the housing blocks, public open space and wider site landscape;
 - (b) Creation of a connected network of green spaces that build on and enhance the existing green corridors;
 - (c) Creation of landscape buffer zone along the southern and eastern boundaries of the site to screen the A66 and Neasham Road from the proposed development and assist with noise attenuation; and
 - (d) Creation of an extensive Footpath / Cycleway network within the site that links to the existing network and beyond.
- 7.19 Delivery of new roads and footpaths is central to the delivery of the Scheme as a whole, which will deliver the full range of social and environmental benefits as outlined above and considered in the Planning Statement.
- 7.20 The necessity of acquiring the Order Land is demonstrated in paragraph 3 of this Statement of Reasons. In particular there is no statutory process other than compulsory purchase that can provide the Council with title to the land, and the Council cannot negotiate as there is nobody to negotiate with.
- 7.21 The Council intends to acquire all interests in the Order Land (unless already within the ownership of the Council or expressly stated otherwise in the Schedule to the Order) either by agreement or by exercising its compulsory purchase powers as set out in this statement of reasons.
- 7.22 The Council considers that any interests and rights in the Order Land which may be vested in third parties do not present an impediment to the deliverability of the CPO scheme if the correct statutory procedures and/or negotiations are followed.

- 7.23 There is a reasonable prospect that all phases of the Scheme to which the Order Land relates will be delivered. Virtually all of the land required for the Scheme is already in Council ownership. In effect the value of this land is already committed to the Scheme. The costs of construction, including the construction of roads and footpaths to adoptable standards on the Order Land (and elsewhere on the Scheme land), are secured under a joint venture between the Council and Homes by Esh.
- 7.24 The estimated cost of all road work, infrastructure works, and the Council's build of affordable housing is estimated to be [].
- 7.25 The Council will meet all costs of the compulsory purchase process, including compensation payments, from its own resources. [In any even the costs of compulsory acquisition of the Order Land are assessed by the Council's valuers as modest].
- 7.26 The impact on the human rights of those likely to be affected by the proposed Order is considered in section 11 below.
- 7.27 The impact of the Scheme in the context of the Equalities Act 2010 is considered in section 12 below.
- 7.28 The considerable public benefits to be derived from implementation of the Scheme outweigh any possible harm caused by interference with the human rights of those likely to be affected by the compulsory purchase.
- 7.29 In the Council's view therefore, there is a compelling case in the public interest sufficient to justify the making of the Order for the acquisition of the Order Land.

8.0 DESCRIPTION OF THE SCHEME

- 8.1 The Scheme which the compulsory land acquisition is intended to facilitate provides for the construction of 449 new dwellings on land owned by the Council. The planning application for the Scheme is a hybrid application, part in detail and part in outline. 305 of the 449 new dwellings will be affordable dwellings, with approximately 150 affordable dwellings available for rent built first, followed by a further 144 affordable dwellings built as and when a registered provider of social housing is appointed and the reserved matters application for this element is approved. Open market dwellings will be built in accordance with progress with plots sales and demand.
- 8.2 The Scheme comprises a minimum of 65% affordable dwellings. Of the 294 affordable units, 150 dwellings (on Cell B) would be brought forward first by the Council, and a further 144 dwellings on (Cell C) by a Registered Provider of social housing.
- 8.3 The Scheme will also consist of a diverse mixture of 2, 3 and 4-bedroom open market properties (on Cell A) using a mix of house types and configurations

from 'Homes by Esh'. This is considered an appropriate mix for families, young professionals and older people and is provided in an inherently sustainable location close to Darlington town centre and key public transport links.

- 8.4 'Homes by Esh' are the principle contractors who will be constructing all the adoptable civil, drainage, and road infrastructure requirements to service cells A, B and C and therefore, enabling the Scheme to forward as one development. This initial construction element is the catalyst for the provision of all of the affordable housing within the application Scheme.
- 8.5 As part of the initial infrastructure works the both site entrances will be connected by the development loop road. This will be used for the new bus route servicing the proposed development from the outset of the proposal. 'Homes by Esh' will be undertaking the loop road infrastructure together with both the North and South entrance junctions, allowing the both developers to commit to building their proposed schemes at the same time.
- 8.6 An application for planning approval for the Scheme [was submitted/will be submitted] to the Council on behalf of ['Homes by Esh'] on [] 2020.
- 8.7 For clarity in relation to highways and public rights of way matters, a full depiction of existing rights and Scheme proposals is shown the layout map at Appendix 2, and in particular the respective locations of:

Snipe Lane

Footpath 17

Footpath 14

Proposed new lengths and width of footpaths/cycleways

Proposed new estate and access roads

(Additional information on the proposed new roads and transport can be seen on the general overlay plan at Appendix 1)

- 8.8 The Scheme promises significant improvements to Snipe Lane itself, and footpaths, but these improvements and the Scheme as a whole, cannot be realised without clear and definitive rights over Snipe Lane such as would allow dedication to public use and adoption of the access to be constructed along Snipe Lane.

9.0 **DELIVERABILITY**

- 9.1 All land interests which are to be acquired by the Council, whether compulsorily or by agreement will be acquired for planning purposes (under section 226 or 227 of the Town and Country Planning Act 1990). As all of the Order Land is

intended to be used for adopted roads, public rights of way enhancements and related infrastructure, no onward disposals of the Order Land are contemplated after acquisition by the Council.

- 9.2 Subject to securing planning permission and control of the land necessary to deliver the Scheme, construction is expected to start on site in early 2021. As indicated above, construction would begin with infrastructure works, and the roads network in particular. (Pre-application advice was sought from the Council's Planning Officer and the Scheme was considered acceptable when assessed against national policy and the Council's development plan.)
- 9.3 Once the Council has acquired freehold title to the Order Land the Council be able to dedicate the relevant parts of the Order Land to public use as highway and to formally adopt the same.
- 9.4 The Scheme will be fully funded by the Council and 'Homes by Esh', and in accordance with binding agreements already made between the two, no external funding needs to be secured to deliver the Scheme.
- 9.5 The costs of compulsory purchase, including the compulsory purchase order procedures and compensation payable to owners of any land interests will be met by the Council from its own resources. Given the nature of the interests to be acquired the cost of the compensation element is expected to be low or negligible.
- 9.6 Planning Permission will be needed for the CPO scheme together with any other necessary consents or licences required from the statutory undertaker need for the implementation of the Scheme.
- 9.7 The Acquiring Authority and its development partner are keen to commence the CPO scheme as soon as reasonably practicable, but there are no specific time constraints on the timetable for development. The present intention is for construction to commence in 2020/21 with an anticipated build period of less than 1 year for the development of the Order Land, and less than two years for the first phase of affordable housing construction on the Scheme land.
- 9.8 In the absence of any special land, or special considerations, the Council considers the Scheme eminently 'deliverable' within a reasonable timetable.

10. HUMAN RIGHTS CONSIDERATIONS

- 10.1 In deciding to make the Order the Council has taken into account the provisions of the European Convention on Human Rights and the Human Rights Act 1998, and in particular section 6 of the Human Rights Act 1998, which prohibits public authorities from acting in a way which is incompatible with the European Convention.

- 10.2 The Council has concluded as a result of this assessment that the making of the Order to facilitate the Scheme does not unlawfully derogate from or constitute any unlawful interference with relevant human rights protected by the Convention, namely rights under Article 1 to the First Protocol, Article 6 and Article 8.

Article 1 to the First Protocol

- 10.3 Paragraph 12 of the DCLG Guidance draws particular attention to the provisions of Article 1 of the First Protocol to the Convention.

The main provisions of Article 1 in the current context are that:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

"The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest"

- 10.4 Section 226(1)(a) of the 1990 Act, which authorises the Council to acquire land compulsorily subject to the procedures contained in the Acquisition of Land Act 1981, and therefore provides lawful authority.
- 10.5 The Council considers that compulsory acquisition of the Order Land is necessary given the dearth of alternatives to securing title to the land beneath the roads in question, and that if there is interference with rights by acquisition of the Order Land, the public benefit of the Scheme will outweigh any private loss arising from the acquisition.
- 10.6 Owners and persons directly affected by the Order will also be entitled to full compensation for any property acquired from them compulsorily, and may have the right to compensation for other losses.
- 10.7 The Council considers that there is no person who can prove ownership of the Order Land, however even if such ownership can be proved, or other rights are found to exist, in light of the above, the Council considers that there will be no violation of the rights of such persons under Article 1 to the First Protocol, as the steps taken are the lawful, in the public interest, and proportionate.

Article 6 of the Convention

- 10.8 Article 6 provides that:

"In the determination of his civil rights and obligations or of any criminal charge against him everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law".

- 10.9 The Council notes that the statutory procedures require all those likely to be affected by the Order are notified and given an opportunity to object. If there are objections the Secretary of State will arrange a public local inquiry so that their objections can be heard. The legislation also provides for statutory challenge in the High Court to the decision of the Secretary of State on confirmation of the Order. Finally, if the Order is confirmed and becomes operative those persons directly affected by the Order may refer disputes over compensation for hearing at the Lands Chamber of the Upper Tribunal.
- 10.10 In the Council's view, the steps available to landowners and other affected parties satisfy the requirements of Article 6.

Article 8 of the Convention

- 10.11 Where a compulsory order is made for the acquisition of property, the property in question may be a person's home. In such circumstances Article 8 of the Convention will be engaged.
- 10.12 Although the Order Land does not include any buildings, it is possible that the Order land supports private rights of access to property. In such circumstances Article 8 could be engaged if the rights of access are subject to interference (although there are no plans to interfere with such rights, other than to improve the surface over which the rights subsist)
- 10.13 Article 8 of the Convention provides that:
- "(1) Everyone has the right to respect for his private and family life, his home and his correspondence.*
- "(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others".*
- 10.14 Article 8(1) is a qualified right. Interference with the rights afforded by Article 8(1) can be justified under Article 8(2) in appropriate cases.
- 10.15 Section 226(1)(a) of the 1990 Act, which authorises the Council to acquire land compulsorily subject to the procedures contained in the Acquisition of Land Act 1981, and therefore provides lawful authority. Officers are of the view that compulsory acquisition is necessary given the dearth of alternatives to securing title to the roads in question, and that if there is interference with rights by acquisition of the Order Land, the public benefit of the Scheme will outweigh any private loss arising from the acquisition.
- 10.16 In the particular circumstances of this case, therefore, officers are of the view that the compulsory acquisition of the Order Land will not conflict with the rights

provided by Article 8(1) of the Convention, as the qualifications in Article 8(2) apply.

Proportionality and Human Rights Summary

- 10.17 In considering the proportionality of the action of making the Order, the Council has amongst other things borne in mind the following considerations.
- 10.18 That no more land than is required to facilitate the Scheme has been included in the Order.
- 10.19 That no person is currently known to own the Order Land or any part of it.
- 10.20 That there is no viable alternative to obtaining title to the Order Land other than by way of compulsory acquisition.
- 10.21 That acquisition of title to the Order Land is necessary to facilitate the Scheme, as other legal procedures would not provide clear and secure methods of adoption of the required parts of Snipe Lane.
- 10.22 That the Order would be made under a statutory procedure with built-in safeguards that protect the rights of landowners and other persons.
- 10.23 That acquisition of the Order Land allows the Order Land and the Scheme to be developed in the interests of the social and economic well-being of the area, as much needed homes (including a large number of affordable homes) will be delivered.
- 10.24 All of those persons whose rights under Article 8 of the Convention and/or under Article 1 of the First Protocol of the Convention will have an opportunity to object to the Order and to have their objection considered at a fair and public forum, in accordance with their rights under Article 6 of the Convention.
- 10.25 Landowners and other persons with a proprietary interest in the Order Land will be entitled to proportionate compensation.
- 10.26 The Council notes that the necessary resources are in place to achieve delivery of the Scheme within a reasonable timescale.
- 10.27 To the extent that the Order may interfere with individual rights, the Council considers that the interference with those rights is prescribed by law (S.226(1) (a) of the Town and Country Planning Act 1990); is pursuant to a legitimate aim; is necessary in a democratic society and is proportional to the proposed outcome.

11.0 EQUALITIES CONSIDERATIONS

- 11.1 The Council has considered in making the Order its duty, as a public authority, under 149 of the Equality Act 2010 ('the public sector equality duty'), in the exercise of all its functions, to have due regard to the need to:

eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act;

advance equality of opportunity between persons who share a "relevant protected characteristic" (i.e. the characteristics referred to above other than marriage and civil partnership) and persons who do not share it; and

foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 11.2 DCHLG guidance, paragraph 6 (2019), is that *“Throughout the compulsory purchase process 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. In performing their public functions, acquiring authorities must have due regard to the need to meet these three aims of the Equality Act 2010.”*
- 11.3 Having considered the Order and the Scheme in relation to the public sector duty, the Council considers that the Order Land, if acquired, will facilitate safer and easier access to Snipe Lane for all persons for a range of users, on foot, of whatever ability, and/or with bicycles, horse, motor or other vehicles. Once delivered, the Scheme will facilitate accessibility to the public transport network for those people without access to cars, or who are mobility impaired. The Scheme and the making of the Order are therefore expected to have a positive impact in terms of the Council’s equalities obligations, with no adverse equalities impacts being foreseen. The Council is also fully aware of its equalities duties during the compulsory purchase process, for example with regard to access to documents, premises, and informal advice.
- 11.4 The Council has given consideration to whether a full Equality Analysis is advisable in relation to the impact of the making of the CPO on protected groups. As there is no identified owner of the Order Land there is no evidence to suggest that the implementation of the CPO scheme would have any direct negative impacts on any person or any group of people with protected characteristics. (The position will be monitored and reviewed if necessary during the compulsory purchase process.)
- 11.5 Having had regard to its duty under section 149 of the Equality Act 2010, the Council believes therefore that there is in the public interest a compelling and sufficient case for making of the Order.

12. **INQUIRY PROCEDURE RULES**

This Statement of Reasons is not intended to be a statement of case in accordance with the Compulsory Purchase (Inquiries Procedure) Rules 2007.

13 INQUIRY DOCUMENTS

The following documents may be referred to or put in evidence in the event of an inquiry. These may be inspected at the same venues and times as the Order (see paragraph 14 below).

List of Documents:

Guidance on Compulsory Purchase and the Criel Down Rules, DCHLG 2018

National Planning Practice Guidance (DCHLG, online guidance)

National Planning Policy Framework, DCHLG 2018

Darlington Core Strategy DPD

Darlington Housing and Employment Land Availability Assessment, 2018

The Council's Equality and Diversity Policy

14. INSPECTION OF DOCUMENTS

A copy of the Order, Order Map and other documents may be seen at The Town Hall, Feethams, Darlington, DL1 1QT, Monday to Friday between 9am and 4:30 pm.

Contact for copy documents: [jenny.dixon@darlington.gov.uk]

Tel. []

Appendix 1 – Comprehensive Scheme Plan

Appendix 2 – Plan of Proposed new Highways and related works on the Order
Land

Appendix 3 – Definitive Map extract and register entry

Appendix 4 – Land in Council Ownership

Appendix 5 – Neasham Road, extent of Adopted Highway