

**REPORT FROM:** Director of Place

**TO:** Executive

**DATE:** 20 March 2025

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## **PENDLE RISE SHOPPING CENTRE COMPULSORY PURCHASE ORDER**

### **PURPOSE OF REPORT**

For the Executive to confirm the Borough of Pendle (Pendle Rise Shopping Centre, Nelson) Compulsory Purchase Order 2024

### **RECOMMENDATIONS**

- (1) That Executive confirms the Compulsory Purchase Order in respect of Pendle Rise Shopping Centre

### **REASONS FOR RECOMMENDATIONS**

- (1) To authorise the use of CPO Powers to secure vacant possession of the Pendle Rise Shopping Centre to allow its redevelopment to proceed

### **ISSUE**

In September 2024 the Executive approved the following recommendations:

RECOMMENDATIONS	
(1)	That a compulsory purchase order (CPO) be made pursuant to the powers contained in Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) for the acquisition of the land shaded pink on the plan at Appendix One.
(2)	To delegate authority to the Director of Place to settle the final form and content of the CPO, Statement of Reasons and associated documentation and take all action needed to pursue the CPO and secure its confirmation.
(3)	To delegate authority to the Director of Place following confirmation of the CPO, to implement the CPO powers and acquire title to and/or take possession of the land.
(4)	To delegate authority to the Director of Place to serve notices to terminate leases/tenancies and/or agree relocations of tenants to secure vacant possession of the land where practicable in advance of, or without the need for, implementing CPO powers.
(5)	To note the draft Statement of Reasons, the Relocation Strategy and Equality Impact Assessment produced in support of the acquisition and redevelopment of Pendle Rise.
(6)	To note that Penbrook Developments Limited will be progressing with an application for stopping up small parts of the adopted highway on Broadway and Holme Street to facilitate the redevelopment of Pendle Rise under S247 of the Town and Country Planning Act 1990

1. The Borough of Pendle (Pendle Rise Shopping Centre, Nelson) Compulsory Purchase Order 2024 (“the CPO”) was made by the Council on 11 October 2024, in line with these recommendations. Notice of making of the CPO was subsequently served and published in accordance with the statutory requirements in the Acquisition of Land Act 1981, and a period of consultation with those affected by the Order was entered into.
2. During this consultation period two objections came forward. One from Lancashire County Council in relation to highway land affected by the CPO for which they are the local highway authority. The other was from Specsavers in relation to their existing tenancy with Pendle Rise Shopping Centre (PRSC) and the need for relocation.
3. After a period of negotiation with affected parties, both objections have been withdrawn, and the Planning Inspectorate have confirmed that no public inquiry is required to consider the CPO. They have also confirmed that the alternative ‘Written Representations’ route is not required either and have issued a Notice dated 10 March 2025 (Appendix One) to direct that Pendle Borough Council may self-confirm the order.
4. In recommending that the Council confirm the CPO, officers have re-considered the original justification and need for the CPO as reported on 19<sup>th</sup> September 2024 in advance of the decision to make the CPO. There remains a compelling case in the public interest for the confirmation of the CPO and it is considered that reasonable efforts have been made to negotiate the purchase of the land by agreement, as is required by paragraph 12.3 of the Government’s CPO Guidance:
5. Section 14 of the statement of reasons (Background Paper) set out a summary of why the Council considered that the fundamental principles referred to in the Government CPO Guidance for confirming a compulsory purchase order were met. The statement of reasons was deposited at the time the CPO was made in October 2024, and the Council remains of the view of that these principles remain met. A brief recap of these principles from the Guidance is below

- a. Paragraphs 2.2 and 17.8 of the Guidance requires that reasonable steps have been taken to understand the impacts of the exercise of the powers on those with an interest in the land through direct engagement and attempt the acquisition of all the land in the order by agreement. The Council has continued to engage or try to engage regularly with the remaining landowners in the CPO since it was made, including ascertaining their concerns and how these can be met. Negotiations with tenants and the telecoms operators to gain vacant possession are well advanced and progressing well with many deals confirmed and units vacated and cleared. As a result of this, a number of additional properties have been acquired or have relocated since the CPO was made, and more may be agreed in the coming weeks and months dependent on demand: The updated Relocation Strategy at section 11 explains that three relocation properties have been secured so far under the guidance of the relocation strategy and that further relocation properties will be considered based on the needs and demands of the retailers seeking to relocate. The regular engagement with the two objectors has led to measures being put in place to meet their concerns and their objections being withdrawn.
  - b. Paragraphs 13.3 of the CPO Guidance sets out that the Council ought to have a clear idea of how it intends to use the land which it is proposing to acquire and that all necessary resources are likely to be available to achieve that end within a reasonable timescale. The Council's plans for redevelopment of the shopping centre and its funding position for construction, land acquisition, compensation and costs (including source and timing of funding) remain as set out in sections 5 and 10 of the statement of reasons, and therefore this requirement is met.
  - c. The implementation of the scheme following the confirmation decision being made remains unlikely to be blocked by any physical or legal impediments to implementation as required by paragraph 15.1 of the Guidance. The CPO remains a fit with the strategic planning framework for Nelson and the adopted local plan, draft local plan and NPPF.
6. Penbrook Developments Limited have made progress with a S278 Highways Agreement and S73 agreements. These will enable a s247 TCPA 1990 application for stopping up, or other equivalent mechanism, which will enable the small parts of the adopted highway to be stopped up under planning powers.
  7. There has also been extensive engagement with those affected by the CPO.
  8. The Relocation Strategy has been updated in line with new Compulsory Purchase guidance issued by UK Government<sup>1</sup>. The Public Sector Equality Duty, outlined in the Equality Impact Assessment, which supports the Relocation Strategy, continues to be at the forefront of the approach to the redevelopment. For example, a number of retailers have been provided with suitably qualified translators where English is their second language.
  9. There is not considered to be any reasonable alternative option, other than to confirm the CPO. Without the CPO, the land will not be redeveloped, and the public benefits for the redevelopment scheme set out in the statement of reasons will not be delivered.
  10. Following confirmation of the CPO, notice of confirmation of the CPO will be published and served upon those directly affected. This precedes a six-week period during which persons

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<sup>1</sup> Guidance on the Compulsory Purchase Process (MHCLG)

aggrieved by the confirmation of the CPO may lodge a statutory challenge against the confirmation of the CPO in the High Court. At the end of the period, it is intended that Pendle Borough Council will implement the powers in the CPO to acquire remaining land interests and obtain vacant possession of the shopping centre. This may take the form of a General Vesting Declaration (GVD) or a Notice to Treat and Notice of Entry, depending on the type of interests that remaining tenants and occupiers have.

11. After 3 months from the exercise of the CPO powers– which is estimated to be around the end of August – the Council will have ownership of the shopping centre land together with the right to take possession of it, after which the much needed Pendle Rise redevelopment scheme can proceed.

## **12. IMPLICATIONS**

### **13. Policy:**

14. This decision allows for the implementation of prevailing planning policy for Nelson Town Centre. It is also in line with Town Deal Programme proposals.

### **15. Financial:**

16. The recommended route for confirmation of the order negates the need for a public inquiry and this will lead to reduced costs being incurred by Pendle Borough Council in terms of public inquiry costs and legal fees.

### **17. Legal:**

18. The decision is compliant with section 14A of the Acquisition of Land Act 1981 which permits an acquiring authority to confirm a CPO itself where the confirming authority has issued notice to the acquiring authority that it may do so.
19. The Council must notify the Planning Inspectorate as soon as reasonably practicable after it has determined whether or not to confirm the CPO.
20. Thereafter, the Council must comply with the requirements in section 15 of the Acquisition of Land Act 1981 to notify all qualifying persons that the CPO has been confirmed, and to publish notice of the same.

### **21. Risk Management:**

22. Risk Management is covered under Town Deal Programme protocols.

### **23. Health and Safety:**

24. There are no direct Health and Safety consequences of this decision.

### **25. Sustainability:**

26. There are no direct sustainability consequences of this decision.

### **27. Community Safety:**

28. Confirmation of the order will enable the timeline for expediting the demolition of the existing centre which is a dilapidated state to be accelerated. This includes asbestos removal. These are positive outcomes for Community Safety.

**29. Equality and Diversity:**

30. The Equality Impact Assessment relating to the CPO of Pendle Rise Shopping Centre has been reviewed for currency in advance of submitting this report and its requirements are being followed. The Council has had due regard to the Public Sector Equality Duty at all stages of the CPO process, including the proposal to self-confirm the CPO.

**31. Human Rights:**

32. Consideration has been given to the interference with private rights protected by the Human Rights Act 1998. In this case a decision to compulsorily acquire land and interests in land engages with rights protected under Article 1 of the Protocol to the European Convention on Human Rights (the right to peaceful enjoyment of possessions) and Article 8 of the European Convention on Human Rights (right to respect for private and family life, home and correspondence).

33. Any decision to interfere with such rights must strike a fair balance between the public interest associated with the development proposals referred to above and the interference with private rights. Given the clear and substantial public benefits associated with the redevelopment proposals and the availability of compensation to those whose rights are overridden, it is considered that the interference with the private rights of those affected would be lawful, justified and proportionate.

34. The Council remains of the view that the CPO will strike the right balance between the public interest in the Shopping Centre Redevelopment and those private rights that will be affected by the CPO. Whilst owners and occupiers of the CPO Land may be deprived of their property if the CPO is confirmed, this will be in accordance with the law. Those whose interests are acquired under the CPO will be entitled to compensation which will be payable in accordance with the compensation code which has been held to be compliant with Article 8 and Article 1 of the First Protocol to the Convention.

35. As explained above, since the CPO was made, there has been significant further progress with respect to relocation of tenants and implementation of the Council's relocation strategy which seeks to mitigate the impacts for occupiers and tenants of the shopping Centre.

36. Further detail on Human Rights considerations can be found in the draft Statement of Reasons and particular regard has been had to those aspects of the Council's justification for the confirmation of the CPO.

**APPENDICES**

One – Planning Inspectorate Notice

**LIST OF BACKGROUND PAPERS**

*Updated Relocation Strategy*  
*Statement of Reasons*