

# Norfolk County Council

## Record of Individual Cabinet Member Decision

**Responsible Cabinet Member: Cllr Jane James (Cabinet Member for Innovation, Transformation & Performance)**

**Background and Purpose:**

In order to implement the proposals for the improvement of A1074 Dereham Road to enable it to accommodate a segregated footpath and cycleway, it is necessary to acquire two areas of unregistered land adjacent to the public highway. Contact has been attempted with any potential interested parties via site notices and an advertisement in the local press. No claims of ownership have been received as a result of these efforts. However, if land ownership of the unregistered land is legally established by a third party/parties this land will be acquired by agreement where practicable.

**Decision:**

**Is it a key decision?** No

**Is it subject to call-in?** Yes

**If Yes – the deadline for call-in is:** 4pm Thursday 14 December 2023

**Impact of the Decision:** Please see attached decision making report.

**Evidence and reason for the decision:** Please see attached decision making report.

**Alternative options considered and rejected:** Please see attached decision making report.

**Financial, Resource or other implications considered:** Please see attached decision making report.

**Record of any conflict of interest:** None

**Background documents:** None

**Date of Decision:**

**Publication Date of Decision:** 7/12/2023

**Signed by Cabinet Member:** 7/12/2023

I confirm that I have made the decision set out above, for the reasons also set out.

**Signed:** Cllr Jane James

**Print name:** Cllr Jane James

**Date:** 07/12/2023

**Accompanying documents:**

- 

Once you have completed your internal department clearance process and obtained agreement of the Cabinet Member, send your completed decision notice together with the report and green form to [committees@norfolk.gov.uk](mailto:committees@norfolk.gov.uk)

# **Individual Cabinet Member Decision Report**

**Report Title: Compulsory Purchase Order of unregistered land for the improvement of A1047 Dereham Road, Costessey**

**Date of Meeting: n/a**

**Responsible Cabinet Member: Cllr Jane James** (Cabinet Member for Corporate Services and Innovation)

**Consulted Cabinet Member: Cllr Graham Plant** (Cabinet Member for Highways, Infrastructure and Transport)

**Responsible Director: Grahame Bygrave**, Interim Executive Director for Community & Environmental Services

**Is this a Key Decision? No**

**If this is a Key Decision, date added to the Forward Plan of Key Decisions: n/a**

## **Executive Summary / Introduction from Cabinet Member**

In order to implement the proposals for the improvement of A1074 Dereham Road to enable it to accommodate a segregated footpath and cycleway, it is necessary to acquire two areas of unregistered land adjacent to the public highway. Contact has been attempted with any potential interested parties via site notices and an advertisement in the local press. No claims of ownership have been received as a result of these efforts. However, if land ownership of the unregistered land is legally established by a third party/parties this land will be acquired by agreement where practicable.

Since it has not been possible to establish ownership of the unregistered land parcels and in order to meet the time constraints to take advantage of the funding opportunity from the Transforming Cities Fund and to protect the Council from risk, it is intended that the Compulsory Purchase Order process is pursued. It is necessary to acquire this land in order to provide the required facilities to highway users to adequate standards. A CPO Plan is included in Appendix A and a detailed

engineering drawing can be found in Appendix B. A site location plan can be found in Appendix C. Exempt information is included as Appendix D.

## **Recommendations:**

- 1. To authorise the making, confirmation and implementation of a Compulsory Purchase Order (CPO) pursuant to the powers set out in section 239 of the Highways Act 1980 and the Acquisition of Land Act 1981 and all other enabling powers to compulsorily acquire the area of land (“the CPO Land”) shown shaded pink and edged red attached to the report to facilitate the improvement of Dereham Road**
- 2. To delegate authority to the Interim Executive Director of Community and Environmental Services to:**
  - a. determine the form and contents of the CPO and the statement of reasons accompanying the CPO and to finalise the same**
  - b. take all necessary steps to secure the making, confirmation and implementation of the CPO including the publication and service of all statutory notices on relevant parties, the investigation of and response to objections (including the negotiation and completion of any necessary agreement and undertaking in order to secure the removal of objections to the CPO), the presentation of the case at any public inquiry or via written representations and all other associated procedural steps**
  - c. take all appropriate actions for making amendments, modifications and deletions to the CPO and plan including updates and corrections to the draft as necessary to finalise and secure confirmation of the CPO**
  - d. acquire the CPO Land whether by voluntary agreement or compulsorily using the statutory powers section 239 of the Highways Act 1980 and Acquisition of Land Act 1981**
  - e. issue and serve any warrants to obtain possession of the CPO Land once acquired following execution of a General Vesting Declaration or service of a Notice of Entry if it is necessary to obtain vacant possession**
  - f. suspend or abandon the CPO proceedings or withdraw the CPO in relation to all or part of the CPO land**
  - g. take necessary action to deal with all matters relating to the payment of statutory compensation including, where required, instituting or defending proceedings**
  - h. take all other necessary action to give effect to these recommendations.**

## **1. Background and Purpose**

- 1.1 The proposal for the compulsory purchase of land is to facilitate the improvement of A1074 Dereham Road by creating a segregated footpath and cycleway which is a highway improvement scheme for which there is an opportunity to fund through the Department for Transport (DfT's) Transforming Cities Fund (TCF).
- 1.2 The two areas of unregistered land are located on the north side of the A1074 Dereham Road, Costessey, outside property number 186 (please refer to Appendix C for its' location).
- 1.3 The scheme aims to improve journeys for those travelling through the area by bike or foot linking the Bowthorpe employment area with the city centre.
- 1.4 A public consultation on the scheme took place early Autumn 2022 and although the scheme was met with some criticism, most objections were related to the introduction of bus lanes. The proposals to improve walking /cycling were generally welcomed.

## **2. Proposal**

- 2.1 The scheme is for improvement of an existing highway as shown in the engineering drawings provided in Appendix B.
- 2.2 Due to the constrained nature of the site and the objective of providing safer facilities for walking and cycling it has not been possible to design a scheme without impacting on the identified two areas of unregistered land. It is recommended that a CPO process be undertaken to secure the land necessary for the delivery of the scheme. Please refer to Appendix A to view the Compulsory Purchase Order plan.

## **3. Impact of the Proposal**

- 3.1 The current situation is that cyclists are not able to use the footway as it is too narrow to accommodate both cyclists and pedestrians. This means that cyclists have to join the general traffic in the carriageway.
- 3.2 The CPO Land allows space to be provided for those walking separately to those cycling, in line with the requirements of the DfT's Local Transport Note 1/20 – 'Cycle Infrastructure Design.' Segregated space is beneficial in order to provide high quality routes to encourage people to walk and cycle. Providing segregated routes for pedestrians and cycles can make it easier for people with some protected characteristics, such as those who are partially sighted, to use the area as the likelihood of conflict between vulnerable users on foot and those on cycles is reduced.

- 3.3 Cyclists are currently required to use the carriageway, mixing with general traffic. The new provision will provide a safer alternative for cyclists who will be able to travel segregated from general traffic. This is a particular benefit for more vulnerable cyclists such as children.
- 3.4 The acquisition of the CPO Land will enable the proposed segregated cycle track to tie into the proposed new segregated footpath/cycleway on Mayfly Way, which itself links into the existing Green Pedalway. This will provide a high quality and continuous route which is important to make cycle routes convenient in order to encourage people to choose to cycle.
- 3.5 The scheme is currently in the Council's construction programme to commence in January 2024. Disruption will be kept to a minimum during the works to minimise any negative impact on adjoining landowners.

#### **4. Evidence and Reasons for Decision**

- 4.1 As detailed above the CPO Land is required to facilitate the scheme.
- 4.2 The scheme will improve accessibility and safety for pedestrians and cycles in line with the aims of the TCF. The layout has been agreed with Active Travel England (ATE) which review and agree the design of schemes on behalf of DfT. The proposals have been developed in line with the design guidance 'Local Transport Note 1/20 - Cycle Infrastructure Design' published by the DfT in 2020 which requires the segregation of pedestrians and cycles wherever possible.
- 4.3 To try and establish ownership of the unregistered land enquiries have been made with the adjoining landowners and the Council have published and erect a notice on site requesting further information. No information has been forthcoming apart from one response that indicated Norwich City Council may have a claim to the land. Norwich City Council have been contacted and they have confirmed they have no claim to the legal ownership of the land. At present it is not possible to agree a voluntary sale as the owner of the CPO Land is unknown. In order to meet the time constraints of the TCF funding and protect the Council from risk it is intended that a Compulsory Purchase Order is promoted without further delay to try and establish ownership. If any of the unregistered land is subsequently legally established by a third party/parties this will be acquired by agreement where practicable.
- 4.4 The scheme has been proven to be in the public interest as detailed in section 3, in that it will improve facilities for local people walking and cycling. The scheme will make it easier for pedestrians and cycles to use the area, particularly vulnerable users. The scheme also aligns with the wider aims of government policy, to encourage people to adopt more active lifestyles, which benefits not only individuals, but society as a whole.

- 4.5 It is considered that the safety and accessibility benefits for members of public using the route outweigh any loss of a small amount of land by any landowner that comes forward and is proven to have legal ownership. The land currently appears to be unused. The relevant tests in the CPO guidance are considered to have been met.
- 4.6 The scheme aligns with the County Council's 'Better Together, for Norfolk' strategy for 2021-25, enabling people to lead healthy, fulfilling and independent lives, develop strong, engaged and inclusive communities and a greener, more resilient future. The Scheme will help to provide sustainable infrastructure and encourage behaviour change as people choose active modes of travel.
- 4.7 Norfolk's Local Transport Plan (LTP) covers the period 2021-2036 and the Scheme proposed on Dereham Road helps to meet policies within the plan, including:
- Policy 2 – The priority for reducing emissions will be to support a shift to more sustainable modes and more efficient vehicles, including lower carbon technology and cleaner fuels; this includes the facilitation of necessary infrastructure;
  - Policy 4 – We will work with people to shape the way they travel, why they are travelling and whether they need to travel, encouraging behaviour change and interventions that can help to increase the use of sustainable transport;
  - Policy 9 – Our priority for improved connectivity will be that the network is used by clean transport modes;
  - Policy 15 – We will identify routes important for sustainable and active transport and give priority – especially in urban areas – to sustainable and active modes of transport;
  - Policy 17 – Using the safe systems approach, the county council and road safety partners will work together to contribute to a reduction in the number of people killed and seriously injured on the road network.
- 4.8 The County Council's Environmental Policy sets out the aim of achieving net zero carbon emissions by 2030. The proposed scheme will improve the infrastructure to help enable people to choose to walk or cycle and reduce emissions from private motor vehicles.
- 4.9 The proposal also aligns with the Government's Cycling and Walking Policy for England ('Gear Change – A bold vision for cycling and walking (July 2020)) which aims to see half of all journeys in towns and cities cycled or walked. The guidance sets out how changes to infrastructure need to be made in order to encourage people to walk or cycle rather than use a private motor vehicle.

## **5. Alternative Options**

- 5.1 Options for constructing on highway land are restricted in this location due to the existence of mature trees and a privately owned track. The only

alternative option available would be to not provide a segregated footway / cycleway and instead cycles would have to use the carriageway.

## **6. Financial Implications**

- 6.1 The costs associated with the CPO including legal costs, the promotion of orders and any costs that may be incurred associated with land and compensation will be covered by the allocated funding from the TCF.
- 6.2 The Cabinet Member will consider the Exempt Appendix D when making their decision. Appendix D is exempt from publication as it involves the likely disclosure of exempt information as defined in paragraph 11.5 (3) of the Council's Constitution and in accordance with Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The public interest test has been applied and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information at this stage. The information is exempt from the report considered by the Cabinet Member because its' disclosure may prejudice any negotiations regarding compensation for land that may be required should any legal title be proven.
- 6.3 The acquired land shall become public highway and be maintainable at public expense.

## **7. Resource Implications**

- 7.1 **Staff:** The scheme will be designed and delivered using existing resources.
- 7.2 **Property:** The area of proposed acquisition under CPO totals 83m2 which will become public highway and will be maintainable at the public expense.
- 7.3 **IT:** None.

## **8. Other Implications**

- 8.1.1 **Legal Implications:** Section 239 of the Highways Act 1980 provides a general power to allow a local highway authority to compulsorily acquire land required for the construction of a highway, which is to be maintained at the public expense, or to acquire land for the improvement of a highway. This power is appropriate for the acquisition of the CPO Land, as the scheme involves the improvement of existing highway with the CPO Land to become part of the existing highway.
- 8.1.2 The land subject to CPO has no special designations (such as consecrated or common land, open space, allotment land, SSSI or conservation area) and there are no ancient monuments or listed buildings in the vicinity.



8.1.3 Planning permission is not required for the proposal.

8.1.4 Notices for conversion on the existing footway to a combined footway/cycleway will be required pursuant to section 66(4) and section 65(1) of the Highways Act 1980

## **8.2 Human Rights Implications:**

8.2.1 The Council is obliged to act in a way which is compatible with the European Convention on Human Rights. In pursuing the use of CPO powers the Council has carefully considered the rights set out below, in accordance with the balance which should be struck between individuals and those of the wider public. The Convention Rights relevant to compulsory acquisition are as follows:

8.2.2 Article 1 (of the First Protocol) This protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws;

8.2.3 Article 6 (of the Convention) This entitles those affected by the powers sought in the CPO to a fair and public hearing by an independent and impartial tribunal; and

8.2.4 Article 8 (of the Convention) This protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well-being of the country.

8.2.5 Article 14 (of the Convention) This protects the right to enjoy rights and freedoms in the Convention free from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, or national or social origin.

8.2.5 The Council considers that there is a compelling case in the public interest for the acquisition of the CPO Land. As the Order Land is to be become adopted highway any existing pedestrian or cycle users via private rights of way (if any should exist) will not be negatively affected. The compulsory purchase order is therefore considered to be compatible with the Convention.

8.2.6 Those directly affected by the CPO will also be entitled to compensation, which will be payable in accordance with the Compulsory Purchase Compensation Code. This will be assessed on the basis of the market value of the property interest acquired and may include other heads of compensation such as disturbance, severance, injurious affection and statutory loss payment where applicable. The reasonable surveying and legal fees incurred by those affected will also be paid by the Council. The Compulsory Purchase Code has been held to be compliant with Articles 8 and Article 1 of the First Protocol.

### **8.3 Equality Impact Assessment (EqIA) (this must be included):**

8.3.1 There is an Equality Impact Assessment (EqIA) for the scheme and this continues to be developed alongside detailed design proposals to mitigate identified negative impacts on people with protected characteristics.

8.3.2 The EqIA notes that based on the evidence available, this proposal is likely to have a positive impact on people with protected characteristics/a particular group of people with protected characteristics. This is because:

- Disability Discrimination Act (DDA) compliant bus stops and shelters to be installed assisting those who are disabled or have mobility issues
- Upgrading the subway crossing to on carriageway will make crossing Dereham Road easier for disabled people
- Improvements are of benefit to all age groups, in particular - school children and working adults
- Wider footways will make pedestrian travel easier and safer for all
- Cyclists will be separated from pedestrians creating safer pathways
- There are no physical obstructions being introduced

8.3.3 It is considered the Order to be compatible with the Public-Sector Equality Duty and will not have a significant negative impact upon protected groups.

8.3.4 It is recognised that the Public Sector Equality Duty is a continuing duty and it will continued to be considered and applied to potential interested parties and any parties that are established as having an interest in land affected by the CPO.

### **8.4 Data Protection Impact Assessments (DPIA):**

As part of the scheme delivery process all personal data has and will continue to be removed from any reports being put into the public domain. Personal data has been stored as per the Council's standards to allow further correspondence as part of the development of the scheme.

### **8.5 Health and Safety implications:**

The scheme has been designed to improve the safety of highway users. A road safety audit has been carried out and recommendations have been incorporated into the design.

## **8.6 Sustainability implications:**

The objectives of this scheme are targeted at improving the impact transport has on carbon emissions, air quality and public health. These proposals will improve the infrastructure that will make it easier for people to choose to walk and cycle.

## **8.7 Any Other Implications:**

Officers have considered all the implications which members should be aware of and these are included in the report.

## **9. Risk Implications / Assessment**

- 9.1 A risk register is maintained for the TCF programme as part of the technical design and construction delivery processes.
- 9.2 There is a risk that any delay to the CPO process could impact on the ability to utilise the funding within the constraints of the TCF and therefore deliver an improvement scheme at this location.

## **10. Select Committee Comments**

10.1 n/a

## **11. Comments from Consultation with Councillor Plant**

- 11.1 Councillor Graham Plant has acknowledged this report and has no further comments.

## **12. Recommendations**

- 1. To authorise the making, confirmation and implementation of a Compulsory Purchase Order (CPO) pursuant to the powers set out in section 239 of the Highways Act 1980 and the Acquisition of Land Act 1981 and all other enabling powers to compulsorily acquire the area of land ("the CPO Land") shown shaded pink and edged red attached the report to facilitate the improvement of Dereham Road**
- 2. To delegate authority to the Interim Executive Director of Community and Environmental Services to:**
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  - b. take all necessary steps to secure the making, confirmation and implementation of the CPO including the publication**

and service of all statutory notices on relevant parties, the investigation of and response to objections (including the negotiation and completion of any necessary agreement and undertaking in order to secure the removal of objections to the CPO), the presentation of the case at any public inquiry or via written representations and all other associated procedural steps

- c. take all appropriate actions for making amendments, modifications and deletions to the CPO and plan including updates and corrections to the draft as necessary to finalise and secure confirmation of the CPO
- d. acquire the CPO Land whether by voluntary agreement or compulsorily using the statutory powers section 239 of the Highways Act 1980 and Acquisition of Land Act 1981
- e. issue and serve any warrants to obtain possession of the CPO Land once acquired following execution of a General Vesting Declaration or service of a Notice of Entry if it is necessary to obtain vacant possession
- f. suspend or abandon the CPO proceedings or withdraw the CPO in relation to all or part of the CPO land
- g. take necessary action to deal with all matters relating to the payment of statutory compensation including, where required, instituting or defending proceedings
- h. take all other necessary action to give effect to these recommendations.

## **13. Background Papers**

13.1 None.

### **Officer Contact**

If you have any questions about matters contained within this paper, please get in touch with:

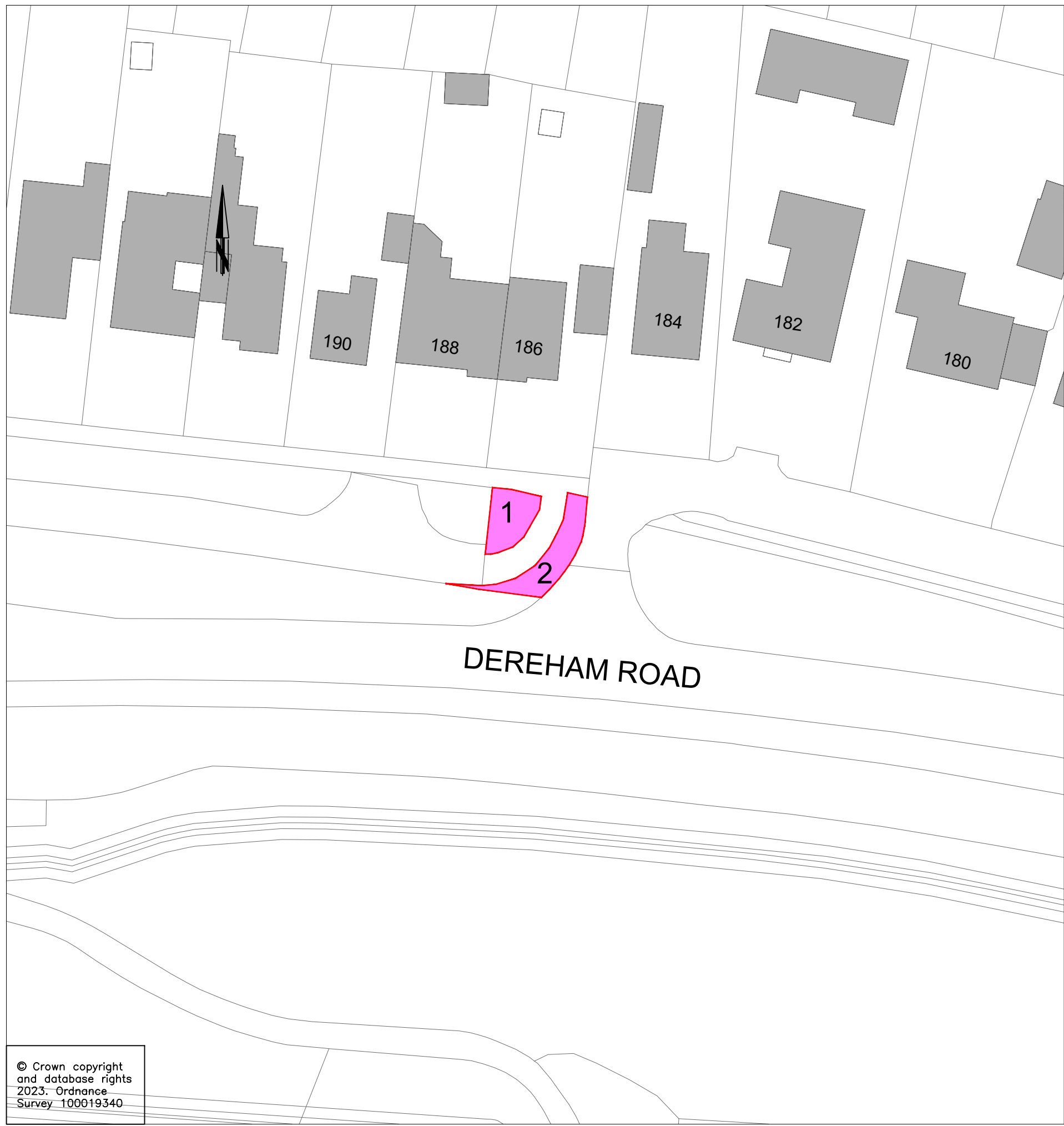
**Officer name: David Allfrey**

**Telephone no.: 01603 223292**

**Email: david.allfrey@norfolk.gov.uk**



If you need this report in large print, audio, braille, alternative format or in a different language please contact 0344 800 8020 or 0344 800 8011 (textphone) and we will do our best to help.



Land to be acquired by compulsory purchase



Plot 1 - Land to be acquired - 36.0m²

Plot 2 - Land to be acquired - 47.3m²

The Common Seal of  
**The Norfolk County Council**  
was affixed hereto  
in the presence of:

\_\_\_\_\_

authorised for and on behalf of the Assistant Director  
Governance (Legal Services) and this deed has been duly  
and properly executed in accordance with the  
constitution of The Norfolk County Council

	Initial	Date	
Surveyed by	OS	2023	
Drawn by	YN	07/2023	
Checked by	CQ	08/2023	

The land to be acquired, which is coloured PINK on this plan,  
represents the net amount of land required for the purposes of the  
scheme; and any new fence, wall, bank or hedge is to be erected on  
the vendors remaining property.

Scale: 1:500 @ A3

Imp. No.

Crown Copyright Reserved

Plan No. PBA019-LAND-002





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2023. Ordnance  
Survey 100019340

Funded by:



**Tom McCabe**  
Executive Director of  
Community and Environmental Services  
Norfolk County Council  
County Hall, Martineau Lane  
Norwich NR1 2SG

DRAWING TITLE  
Dereham Road Bowthorpe Roundabout Mobility Hub  
Consultation Proposed Design - Safety Audit  
Sheet 4 of 6

REV.	DESCRIPTION	DRAWN BY	CHECKED	DATE

	INITIALS	DATE	DRAWING No. PBA019-RSA2-1100-004
SURVEYED BY	Topo/OS	2021	PROJECT TITLE
DESIGNED BY	JR	08/22	Transforming Cities Fund 2
DRAWN BY	KP	08/23	Dereham Road Mobility Hub
CHECKED BY	JR	08/23	SCALE 1:250 @ A1 FILE No. PBA019





DRAWING TITLE	Transforming Cities Dereham Road / Bowthorpe Hub Site Location Plan
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REV.	DESCRIPTION	DRAWN BY	CHECKED	DATE

	INITIALS	DATE	DRAWING No. PBA019-TEN-0000-001	
SURVEYED BY	OS	2023	PROJECT TITLE  Transforming Cities Dereham Road TCF	
DESIGNED BY	CQ	08/23		
DRAWN BY	YN	08/23		
CHECKED BY	JR			
			SCALE 1: 2500 @A3	FILE NO. PBA019