

DEPARTMENT FOR TRANSPORT Ref: NATTRAN/Y&H/HAO/267

PINS REF: DPI/A4710/25/3

IN THE MATTER OF THE PUBLIC INQUIRY

IN RELATION TO:

**The Borough Council of Calderdale (Elland Station and West Vale Access
Package) (West Yorkshire Plus Transport Fund, Transforming Cities Fund)
Compulsory Purchase Order 2022**

**The Borough Council of Calderdale (Elland Station and West Vale Access
Package) (West Yorkshire Plus Transport Fund, Transforming Cities Fund)
(Side Roads) Order 2022**

**The Borough Council of Calderdale (Elland Station and West Vale Access
Package) (West Yorkshire Plus Transport Fund, Transforming Cities Fund)
(Calder and Hebble Navigation Bridge) Scheme 2022**

PROOF OF EVIDENCE

Liam O'Connor BSc (Hons) MRICS

ON BEHALF OF NORTH DEAN AUTOMOTIVE

Contents

1.	INTRODUCTION.....	3
2.	QUALIFICATIONS AND EXPERIENCE	4
3.	BACKGROUND	5
4.	LOCATION AND DESCRIPTION OF LANDOWNER'S INTEREST	6
5.	THE ORDER AND IMPACT ON THE LANDOWNER'S INTEREST	7
6.	THE POWERS SOUGHT UNDER THE ORDER	8
7.	CONCLUSION AND SUMMARY	10

Definitions and Abbreviations used:

Landowner - North Dean Automotive (Howard Leech)

Acquiring Authority - Calderdale Council

The Order - The Compulsory Purchase Order referred to on the Cover of this Proof

The Inspector - Andrew Walker MSc BSc (Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

The Scheme - Elland Station and West Vale Access Package

GVD – General Vesting Declaration

1. Introduction

- 1.1 I am instructed by Howard Leech of North Dean Automotive (the **Landowner**) to provide compulsory purchase advice in relation to the Scheme and separately to submit this Proof of Evidence in relation to the Public Inquiry for the Orders referred to on the cover of this Proof of Evidence.
- 1.2 My instructions are to present my expert opinion and evidence in relation to Order for the benefit of the Inspector and his consideration as part of the Public Inquiry to be held on 24th June 2025.
- 1.3 This report is structured as follows:
 - Qualifications and Experience
 - Declaration
 - Background
 - Location and Description of Landowner's Interest
 - The Order and Impact on Interest
 - The Powers Sought Under the Order
 - Summary and Conclusions

2. Qualifications and Experience

- 2.1 My name is Liam O'Connor. I hold a First Class Bachelor of Science Degree in Urban Land Economics (RICS accredited) (2009) from the Faculty of the Built Environment at Sheffield Hallam University. My career in property started in 2010 and I have been a Chartered Member of the Royal Institution of Chartered Surveyors (RICS) since 2013.
- 2.2 I am an Associate Director at Roger Hannah Ltd where I have worked since joining the business in January of this year.
- 2.3 I have over 14 years of experience in the valuation of commercial and residential land and properties. My principal areas of specialism are compulsory purchase, rating valuation and development consultancy.
- 2.4 I act on behalf of acquiring authorities and claimants in respect of compulsory purchase procedure and compensation nationwide. This has included acting for both those promoting and implementing compulsory purchase powers and those resisting them. Often this work involves advising in compulsory purchase disputes.
- 2.5 I have read the following RICS Professional Statements and believe that I am compliant with them:
- Surveyors advising in respect of compulsory purchase and statutory compensation – UK 2nd Edition Sept 2024
- Surveyors acting as Expert Witnesses – 4th Edition Feb 2023
- 2.6 I was formally instructed by North Dean Automotive 14th May 2025 to provide overall advice in relation to the Scheme and later instructed to appear at the Public Inquiry.
- 2.7 I understand that my overriding duty is to assist the Inspector in his consideration of the Order subject to this Inquiry in relation to the matters within my expertise set out in this Proof of Evidence and that this duty overrides any obligation to the Landowner.

Declaration

- 2.8 I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.
- 2.9 I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.
- 2.10 The evidence which I have prepared and provide in this Proof of Evidence is true and has been prepared and given in accordance with the guidance of my professional institution detailed above and I confirm that the opinions expressed are my true and professional opinions.
- 2.11 I can confirm that any remuneration received by my company is not related to the outcome of the Public Inquiry.

3. Background

- 3.1 On 4th July 2016 The Borough Council of Calderdale's Cabinet agreed to the use of compulsory purchase powers and authorised its Director of Economy and Environment and Head of Legal and Democratic Services in conjunction with the relevant Portfolio Holder to prepare The Borough Council of Calderdale (The Elland Access Package) (West Yorkshire Plus Transport Fund & Transforming Cities Fund) Compulsory Order 2022 ("the CPO") in order to deliver the Elland Access Package scheme
- 3.2 Further Cabinet authority was given for The Borough Council of Calderdale (The Elland Access Package) (West Yorkshire Plus Transport Fund & Transforming Cities Fund) (Side Roads) Order 2021 ("the SRO") and The Borough Council of Calderdale (Elland Access Package) (West Yorkshire Plus Transport Fund, Transforming Cities Fund) Bridge Scheme 2021 ("the Bridge Scheme") on 9th November 2020 and 17th January 2022.
- 3.3 The Compulsory Purchase Order ('the Order') has been made under sections 239, 240, 250 and 260 of the Highways Act 1980. The Council thinks that there is a compelling case in the public interest and that the proposed acquisition will facilitate the carrying out of the Elland Access Package scheme.
- 3.4 The SRO has been made under sections 14 and 125 of the Highways Act 1980 and all other powers enabling them in that behalf. It includes provisions to stop up a private means of access to premises adjoining or adjacent to land forming part of the scheme and to provide a new means of access to any such premises. It is stated that the SRO will enable the Council to carry out the necessary improvements and alternations to the highway required by the Elland Access Package scheme.

4. Location and Description of Landowner's Interest

- 4.1 The Landowner holds the freehold interest in the property known as North Dean Garage, Stainland Rd, Greetland, Halifax, HX4 8LS
- 4.2 It comprises a car display and sales site with associated car workshop/garages to the rear with a prominent frontage directly onto the eastern side of Stainland Road in Greetland. It is located approximately 0.7 miles northwest of Elland Town Centre and approximately 1.25 miles south of Halifax Town Centre.

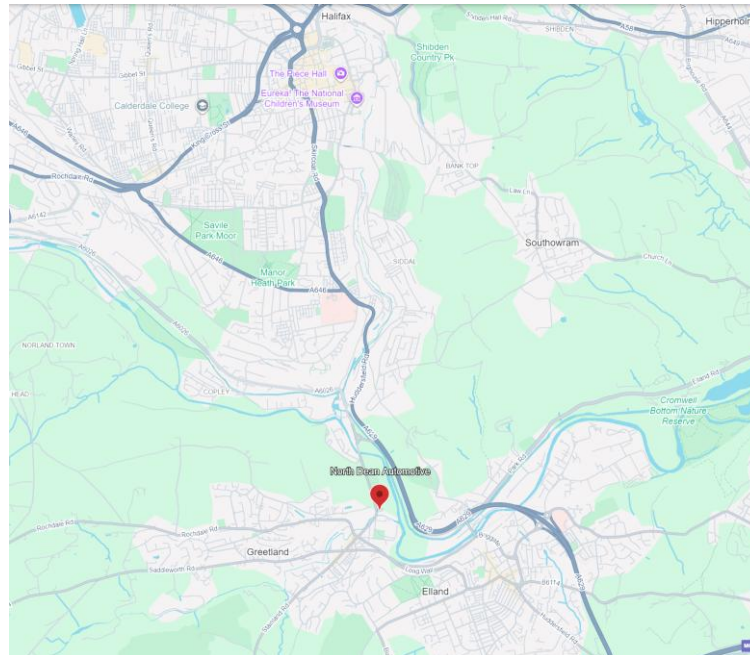


Fig.1 Location Map (Source Google Earth)



Fig 2: Aerial Site Plan (Source LandInsight based on Land Registry Data)

I understand that North Dean Automotive (Howard Leech) own the land shown to the north of the registered title boundary indicated hard up to the Rugby Club driveway owing to a previous legal agreement with the club, under which this land should have been formally registered to Howard but has not been transferred.

- 5.4 But in principle terms, if the Order is implemented in its current form with all plots shown above being permanently acquired, the site will be severed from the highway with respect to vehicular access and the much diminished area of retained land will be rendered unusable in relation to its current use as a car sales site with associated workshops.
- 5.5 This is unless significant Accommodation Works are undertaken to replace the existing vehicular access, reconfigure internal access within the site and to reduce the overall quantum of land permanently acquired for the Scheme which is substantial in relation to the overall footprint of the site.
- 5.6 Whilst the Landowner is in active discussions with the Acquiring Authority on the terms of an agreement that would cover the Accommodation Works and overall permanent land take amongst other matters, legal completion of this agreement cannot be guaranteed at this time.
- 5.7 In the absence of such an agreement, it is my opinion that the Acquiring Authority cannot legally deliver the works in the manner set out in the Statement of Reasons submitted as part of the Order as detailed below.

6. The Powers Sought under the Order

- 6.1 The Borough Council of Calderdale (Elland Station and West Vale Access Package) (West Yorkshire Plus Transport Fund, Transforming Cities Fund) Compulsory Purchase Order 2022 has been made under section sections 239, 240, 250 and 260 of the Highways Act 1980.
- 6.2 The Statement of Reasons submitted as part of the Order indicates that 'Temporary access to land' is sought in respect of the majority of the plots indicated on the plan at Fig.3 above.

Plot Number	Freehold Title Holder/Reputed Owner	Requirements
1/1	North Dean Automotive Limited	Land to construct cycleway and new structures, replace/improve existing structures and drainage systems.
1/1a	North Dean Automotive Limited	Temporary access to land to allow for the construct cycleway and new structures, replace/improve existing structures and drainage systems.
1/1b	North Dean Automotive Limited (Reputed Owner)	Temporary access to land required to create new access to North Dean Automotive and adjust boundaries and ground levels.
1/1c	North Dean Automotive Limited	Temporary access to land required to construct new access into North Dean Automotive lower yard.
1/2	North Dean Automotive Limited & Heath Rugby Union Football Club Limited (Reputed Owners)	Unregistered land with reputed title owners. Part permanent land required to construct cycleway. Part temporary to provide reputed landowners with Freehold on existing boundary fence.
1/2a	Heath Rugby Union Football Club Limited (Registered Owner). North Dean Automotive Limited (Reputed Owner and Occupier of part)	Temporary access to land required to create new shared access and access to North Dean Automotive and adjust freeholder boundaries and ground levels.

Fig 5. The Order Land - Plots Related to Subject Property

- 6.3 Contrary to the above indication, powers of Temporary Access or Temporary Possession do not exist for an Order submitted under the Highways Act 1980.
- 6.4 The Order places no legal obligation on the Acquiring Authority to transfer the land that is permanently acquired but not permanently required back the Landowner, nor does it provide for a legal mechanism to do so that would provide a direct entitlement to compensation to the Landowner to reflect the interim period where they would lose possession and ownership of each plot from their overall interest.
- 6.5 The Statement of reasons therefore paints a false picture of the impact of the Scheme on the Landowner's interest and is divorced from the reality of the powers sought in the Order.
- 6.6 Whilst I can see the overall intention of the Acquiring Authority in including so much of the land as permanent acquisition in the absence of more appropriate powers, the Order as drafted places the Landowner in an unsafe legal position as to the return of this land and in terms of their entitlement to Compensation.
- 6.7 Whilst matters of Compensation are not normally a relevant consideration as part of a CPO Inquiry. This is **provided that** an Inspector is satisfied there is statutory entitlement that compensates the landowner, so far as money can do so, for being deprived of their property rights as a result of powers being exercised.
- 6.8 In the present case, as the powers of temporary possession sought by the acquiring authority do not exist in the legislation relevant to this type of Order, it creates a scenario where there is also potentially no statutory mechanism under which the landowner can claim for their losses if such powers are granted and they affectively lose their interest in several plots through permanent acquisition for a period of time.

- 6.9 In my opinion, entitlement to Compensation therefore should be a relevant factor in deciding whether the Order, as it has been drafted should be confirmed or otherwise.

7. Conclusion and Summary

- 7.1 To summarise, it is my opinion that the Statement of Reasons submitted alongside the Order paints a false picture of the true impact of the powers in relation to the site if powers are implemented and is divorced from the reality of the powers that are sought in the Order.
- 7.2 In relation to the justification for powers in relation to several plots it indicates that the requirements are for 'Temporary access to land' only, when that is not a power available to the Acquiring Authority under the legislation for this type of Order.
- 7.3 In the absence of an agreement with the Landowner outside of the Order, the powers if exercised would represent a disproportionate use of permanent acquisition powers and would not provide for an adequate direct statutory entitlement for the landowner to be compensated for the period where they would temporarily lose a large and critical amount of their interest through permanent acquisition.
- 7.4 There is also no legal obligation on the acquiring authority to return the land in question.