



## **Agenda Item 4**

**Transport Projects – Acquisition  
Of Land for the Denny Eastern  
Access Road (DEAR)**

Falkirk Council

**Title:** Transport Projects – Acquisition Of Land for the Denny Eastern Access Road (DEAR)

**Meeting:** Emergency Executive

**Date:** 28 May 2020

**Submitted By:** Director of Development Services

**1. Purpose of Report**

1.1 This report gives an update on the progress of the Denny Eastern Access Road (DEAR) Compulsory Purchase Order. It seeks authority to proceed with a Compulsory Purchase Order (CPO) for additional land required as a result of the technical review by Transport Scotland to enable delivery of this important transport project should it not prove possible to acquire the land by negotiation or gain access to the land under licence.

**2. Recommendations**

2.1 **The Executive is asked to:-**

- (i) **agrees to the promotion of a revised Compulsory Purchase Order under the Roads (Scotland) Act 1984 over the private interests in the land outlined in the report and shown as Plots 1 to 9 on the plan annexed to allow for the construction of the remaining section of the DEAR and associated roads infrastructure, and**
- (ii) **agrees to the subsequent referral of the CPO to Scottish Ministers for confirmation.**

**3. Background**

3.1 The Executive agreed on 10 December 2019 to the promotion of a Compulsory Purchase Order under the Roads (Scotland) Act 1984 over the private interests in the land shown as Plots 1 and 2 on the attached plan on the December Report (Denny Eastern Access Route – CPO Plan). These plots represented the extent of land needed for the road and associated infrastructure.

3.2 Taking advantage of the Scottish Government technical review service, the Compulsory Purchase Order, Statement of Reasons, Plans and associated notices prepared were submitted to Transport Scotland for technical review before publishing. Transport Scotland carry out the review for roads related projects

3.3 The technical review has highlighted that there is no provision in the current legislation to allow for the temporary acquisition of land e.g. for working space, storage areas and to carry out accommodation works. The Council will therefore have to acquire more land than was originally anticipated to allow the construction of DEAR to take place.

- 3.4 This additional land is shown as plots 3-9 on the plan attached to this report and is demarcated according to which operational farm (Mydub or Cuthelton) it forms part of. This land will be used on a temporary basis to provide working space and access, storage areas and to carry out agreed accommodation works for the affected parties. Whereas this will be needed only temporarily the Council will initially try to gain access under licence rather than outright acquisition which will make the land transfers more straightforward and will prevent the Council having to convey the land back once the scheme is completed. Plots 1 and 2 will be acquired permanently.
- 3.5 Transport Scotland's technical review was delayed due to the Coronavirus upheaval and they also flagged that the emergency legislation passed at the start of April recognises that the public display of CPO documentation for inspection in public buildings should be discouraged and alternative online arrangements will be in place for the duration of the legislation. There will be practical challenges to ensure that the CPO documentation is properly served on affected parties.

#### **4. Funding Mechanism**

- 4.1 There is no change in the funding mechanism since the previous report was agreed by the Executive on 10 December 2019.

#### **5. Land Assembly and Engagement with Parties**

- 5.1 The land shown on the plan as Plots 1 to 9 (the Order Land) is the balance needed to complete the land assembly to allow the remaining section of DEAR to be constructed along with associated roads features and infrastructure. The Order Land is owned by Callendar Estates and is leased to 2 tenant farmers who occupy different parts of the Order Land at Mydub Farm (Plots 1, 3 and 4) and Cuthelton Farm (Plots 2 and 5 to 9). Plots 1 and 2 were the subject land of the previous report of 10 December 2019.
- 5.2 There has been no further progress in land negotiations with Callendar Estates for the order land since the Executive decision of 10 December 2019.

#### **6. Justification for CPO and Public Benefits of DEAR**

- 6.1 In order for CPO to be confirmed, an acquiring authority must establish whether the public benefits of acquiring the necessary land outweigh the private interests and that there is no suitable alternative way to realise its objective.
- 6.2 The principle of housing development in this area has been long established and growth has been encouraged through the local development plan process. The resultant impacts on traffic congestion, at Denny Cross and the need to provide a robust traffic network solution for proposed new housing developments in the area mean that the DEAR solution is the only viable way of addressing these issues.
- 6.3 The main benefits of DEAR are in easing congestion at Denny Cross and facilitating the strategic growth area and allowing other development sites to be brought forward. Without this, development pressure for the release of other

housing land sites will increase. As a consequence of reducing congestion at Denny Cross there will also be improvements in air quality and road safety. The combination of the Denny town centre regeneration and DEAR will benefit the local economy by making Denny town centre an easier more attractive place to visit for local shops and services and to attract investment.

## **7. Consultation**

- 7.1 As part of the Local Plan and Local Development Plan process extensive public consultation exercises were carried out in the local communities in order to produce the plan. As part of the proposals under consultation was Local Plan proposal TR.DEN01 and Local Development Plan Project INF14 for the Denny Eastern Access Road.
- 7.2 The Local Transport Strategy in 2006 and 2014 included extensive consultation with the public, industry and stakeholders regarding transport policies and projects. As result of the consultation the scheme to construct DEAR was included in the adopted strategy.
- 7.3 Planning application P/12/0546/FUL has gone through consultation before planning permission was granted.

## **8. Implications**

### **Financial**

- 8.1 Funding is available through the Council's Capital Programme for the CPO as well as the construction of the road improvement scheme. There may be costs of legal representation as per paragraph 8.4 below.
- 8.2 The project is initially to be funded through Prudential Borrowing with the Council recovering the costs of the scheme (retrospectively if necessary) through the relevant planning obligations received for the sites in the Denny and surrounding area identified in the Local Development Plan. This is in accordance with the relevant supplementary planning guidance.

### **Resources**

- 8.3 Staff time will be required to conclude land acquisition and complete detailed design of the road improvement scheme.

### **Legal**

- 8.4 There may be objections to the CPO that will lead Scottish Ministers to order a Public Local Inquiry, conducted via a hearing or written representations.

### **Risk**

- 8.5 If the outcome of any Public Local Inquiry is unsuccessful there is a risk that the scheme would not progress and that costs may be awarded against the Council.

## **Equalities**

8.6 An equality and poverty impact assessment is not required.

## **Sustainability/Environmental Impact**

8.7 A full Strategic Environmental Assessment was carried out on the Local Development Plan which included the DEAR.

## **Policy**

8.8 The DEAR project enables the delivery of the Council's policy priorities including the Local Development Plan and the 'Enabled Communities' workstreams of Council of the Future.

## **9. Conclusions**

9.1 This report outlines the reasons for the acquisition of additional land to deliver DEAR. It asserts that given the information above, there is a clear case in the public interest to use CPO to acquire the land to deliver the road improvement scheme at DEAR.

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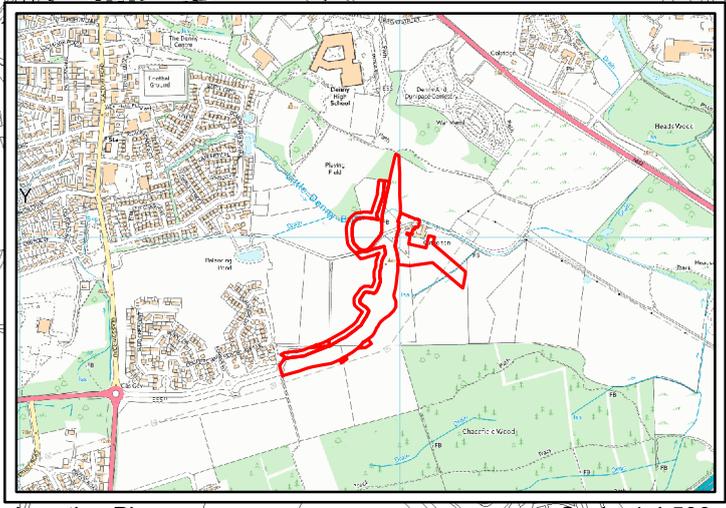
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22 May 2020

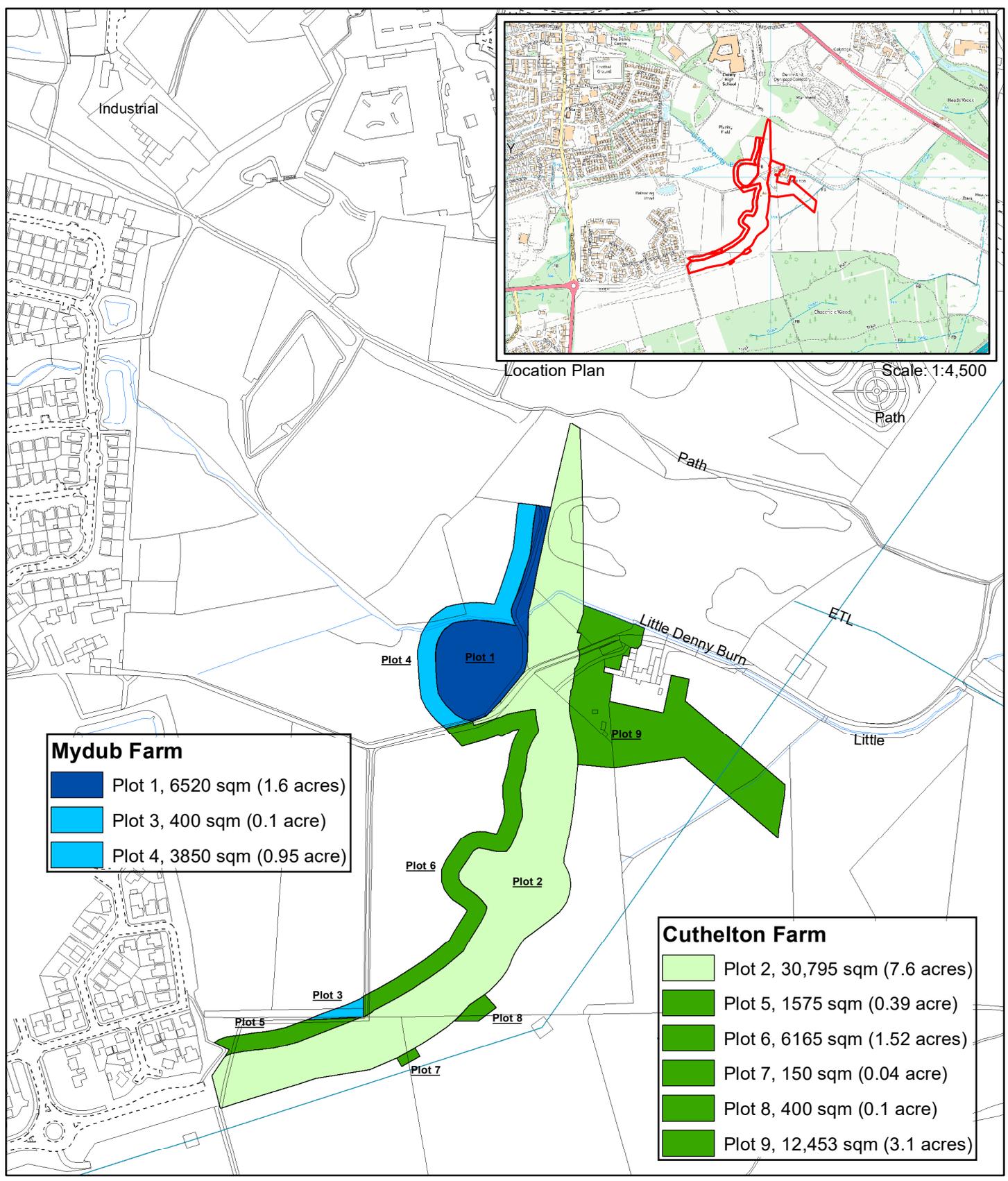
Appendices Denny Eastern Access Route – CPO Plan – Appendix 1

List of Background Papers – Executive Report - Transport Projects – Acquisition of Land for the Denny Eastern Access Road (DEAR) 10 December 2019



Location Plan

Scale: 1:4,500

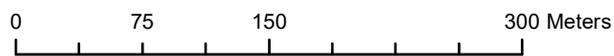


**Mydub Farm**

	Plot 1, 6520 sqm (1.6 acres)
	Plot 3, 400 sqm (0.1 acre)
	Plot 4, 3850 sqm (0.95 acre)

**Cuthelton Farm**

	Plot 2, 30,795 sqm (7.6 acres)
	Plot 5, 1575 sqm (0.39 acre)
	Plot 6, 6165 sqm (1.52 acres)
	Plot 7, 150 sqm (0.04 acre)
	Plot 8, 400 sqm (0.1 acre)
	Plot 9, 12,453 sqm (3.1 acres)

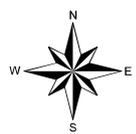


Falkirk Council

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Scale: 1:4,500

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Subject

Denny Eastern Access Route - CPO Plan

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