

Cabinet

20 October 2026

Compulsory Purchase of 364 High Street, Rochester ME1 1DJ (Former Mak's Curry Nest)

Portfolio Holder: Councillor Simon Curry, Portfolio Holder for Climate Change and Strategic Regeneration

Report from: Adam Bryan, Director of Place

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Summary

This report seeks approval from Cabinet for the acquisition of the former Mak's Curry Nest at 364 High Street Rochester ME1 1DJ, through a Compulsory Purchase Order (CPO).

1. Recommendations

- 1.1. It is recommended that the Cabinet agrees to make a Compulsory Purchase Order (CPO) under the Acquisition of Land Act 1981 and s226(a) of the Town and Country Planning Act 1990, for the acquisition of the Property, as identified in Appendix C for the purposes of the provision of housing accommodation.
- 1.2. It is recommended that Cabinet authorises the Director of Place to:
 - 1.2.1. Take all necessary steps to secure the making, confirmation and implementation of the CPO, including the publication and service of notices and all other associated procedural steps.
 - 1.2.2. Acquire the Property, whether by voluntary agreement or compulsorily using the statutory powers set out in paragraph 1.1.
 - 1.2.3. To dispose of the Property by the options set out in 5.3 of the report with appropriate conditions to secure its repair.
 - 1.2.4. Suspend or abandon the CPO proceedings or withdraw an order on being satisfied that the Property will be satisfactorily renovated and re-occupied.

1.2.5. Take necessary action to deal with all matters relating to the payment of statutory compensation including, where required, instituting or defending proceedings.

1.2.6. Take all other necessary action to give effect to these recommendations.

1.3. To proceed with recommendations 1.1 and 1.2 only after a contract for the sale of the property has been agreed that covers all the costs of acquisition and the CPO (paragraphs 5.3 and 5.4 refer).

2. Suggested reasons for decisions

2.1. The property has been empty, and for a large part of that derelict, for over 10 years. Its condition has steadily deteriorated in recent years and is now proving to be detrimental to the character of the conservation area and neighbourhood. The lack of use of both ground and upper floors is impacting on the vitality of the area as well as not providing for suitable residential accommodation in an area with high housing demand.

2.2. Officers and external agencies have also been unable to locate the owner who owes over £50,000 in business rates debt.

2.3. The property has attracted a number of complaints from local residents and therefore is having a detrimental effect on them, as it is affecting enjoyment of their properties. CPO action will allow the physical appearance of the property to be brought in line with neighbouring properties, and also for both the ground and upper floor to be put into an appropriate use, thereby increasing the economic and social wellbeing of the area.

2.4. Works to enhance the appearance of the property will remove its current blighting effect and improve the local environment for neighbouring properties.

2.5. Re-occupation/ re-use would also reduce the likelihood of the property attracting anti-social behaviour, crime and vandalism. It has already attracted squatters.

2.6. The Council considers that the CPO will result in the property being brought back into use, particularly if working in partnership with a body like the Chatham Intra Community trust. The CPO is necessary and justified as last resort as this benefit could not be achieved by agreement.

3. Budget and policy framework

3.1. The responsibility for the decision on acquiring property and making of a Compulsory Purchase Order is a matter for Cabinet.

4. Background

- 4.1. 364 High Street is a three-storey end of terrace building built in the early 20th century located in the Star Hill to Sun Pier Conservation Area (“the property”). The property comprises a former restaurant/hot food take away at ground floor level and a flat at first and second floor level.
- 4.2. The property has been vacant since 2012 and has fallen into significant disrepair. Appendix A sets out a schedule of defects identified from an external inspection of the building. External photographs of the property are in Appendix B.
- 4.3. According to Land Registry records, Mr Anwar Shah has been the owner of the property since 16 January 1995. Council Tax records suggest the property has been empty for more than 14 years. Since 2012, the Council has received a number of complaints relating to the external condition of the property.
- 4.4. As of April 2026, there is an outstanding Council Tax debt of £52,877.27. There is no mortgage or other debt secured against the property so far as records show.
- 4.5. A section 215 notice was issued on the 1, February 2013 (Appendix E). However, no response was received from the owner, and no action was taken to remedy the condition of the building within the specified compliance period.
- 4.6. This led to further action by the Council. On the 14 December 2021, the Cabinet resolved to make a Compulsory Purchase Order (CPO) in respect of the property (Decision No. 144-145/2021). However, prior to the implementation of the CPO, the owner emerged and undertook the required works under the Section 215 Notice. Consequently, the proposed CPO action was not progressed.
- 4.7. It is unclear whether the property has had any lawful occupiers since the previous Section 215 action and CPO proceedings. However, following completion of the maintenance works, the property appears to have become vacant once again and has subsequently deteriorated into a state of disrepair. This has further attracted unauthorised occupation and anti-social behaviour.
- 4.8. Despite the Council's best endeavours, it has been unable to locate the property owner, as have external agencies appointed to recover Council Tax debts.
- 4.9. As a result, a new Section 215 Notice was served on 25 February 2026 (Appendix F). The compliance period expired on 27 April 2026; however, the owner failed to undertake any works to remedy the condition of the property. As a result, the property remains in a derelict state and empty. The Council is therefore reviewing the potential use of compulsory purchase powers to secure the long-term improvement of the property and bring it back into beneficial use for the local community.

- 4.10. The Council must consider the provisions of the European Convention on Human Rights. The Convention Rights relevant to compulsory acquisition are as follows.
- 4.11. The Council considers that the CPO will result in the property being brought back into use. The CPO is necessary and justified as last resort as this benefit could not be achieved by agreement.
- 4.12. 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.
- 4.13. 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 wellbeing of the country.
- 4.14. 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.
- 4.15. In the officers' view there are sufficient grounds, as detailed in the preceding paragraphs, on which to conclude that the proposed CPO is in the public interest and to justify interfering with the human rights of any person with an interest in the Property.
- 4.16. The Council also considers the proposed CPO to be compatible with the Public Sector Equality Duty and that it will not have a significant impact on protected groups. However, this will continue to be considered throughout the process.

5. Options

The Council's options are as follows:

- 5.1. To continue to try to locate and engage with the owner of the property. This is considered unlikely as all best efforts by internal and external agencies have not been able to locate or engage with the owners.
- 5.2. To do nothing - This is not acceptable due to the property's continuing deteriorating condition and the negative impact it has on the Conservation Area and the neighbourhood. Further issues are likely to arise as the property deteriorates further and the Council is likely to receive further complaints from neighbours and from the Chatham Intra Community Trust.
- 5.3. To pursue a Compulsory Purchase Order – In order to put the Council in the best possible position, officers advise that compulsory purchase proceedings allowing the Council to purchase the property should be started. An external

specialist legal firm will be appointed to undertake the legal works subject to Member approval.

- 5.4 In order to safeguard the Council's financial position, it is proposed that CPO proceedings will only be commenced after the Council has entered into an agreement with a third party to purchase the property for no less than the total cost of purchase and CPO costs. The Council has a number of options for the sale; sell the building in its current condition on the open market to a private buyer, to Chatham Intra Community Trust, housing association or at property auction. The sale would include an undertaking to carry out works to address the condition of the property and bring it back into use.

6. Advice and analysis

- 6.1. The proposal is for agreement to pursue a CPO on 364 High Street Rochester ME1 1DJ. Medway Council's legal section has advised that the CPO work would need to be undertaken by an external legal company.
- 6.2. Option 5.3 is considered to be the most appropriate way forward to address both the external condition of the property and also bringing it back into future use. It is not considered that options 5.1 and 5.2 are acceptable as the consequences of both will result in the building deteriorating further and potential anti-social behaviour. Option 5.3 will hugely benefit both the appearance of the property and the area while also providing uses appropriate for the building that both benefit the local area and provide for much needed housing.
- 6.3. Officers have had initial discussions with potential purchasers and are satisfied that a viable agreement can be reached with one and that those potential purchasers have credible plans to secure both improvements to the condition of the building and appropriate re-uses.

7. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
CPO proceedings are opposed	There is a risk the CPO will not be granted	Seek appropriate specialist support to put the Council's case for a CPO in the strongest possible terms	D1

For risk rating, please refer to the following table:

Likelihood	Impact:
A Very likely B Likely C Unlikely D Rare	1 Critical 2 Major 3 Moderate 4 Minor

8. Consultation

8.1. None undertaken.

9. Climate change implications

9.1. The Council declared a climate change emergency in April 2019 - item 1038D refers and has set a target for Medway to become carbon neutral by 2050.

9.2. Empty and derelict buildings such as this represent a wasted resource. Medway has long experienced a level of long-term empty properties. Reusing existing buildings would help reduce the need for new housing development and would have a positive impact on the environment.

10. Local Government Reorganisation (LGR) implications

10.1. Following the announcement of the pause on 7 September 2026, officers will monitor the ongoing situation and will consider any relevant impacts as they arise.

11. Financial implications

11.1. As set out in 5.4 above it is proposed that CPO proceedings will only be commenced after the Council has entered into an agreement with a third party to purchase the property for no less than the total cost of purchase and CPO costs which would include the following:

The costs of instructing external legal services such as fees for undertaking the CPO process and disbursements (**£3,200 + Vat as per 2021 quote**). This may increase should there be a relevant objection to the CPO process. In addition, the costs for changing the locks on acquisition, insuring the property, any costs involved in selling the property on e.g., conveyancing fees, auction fees and estate agent fees. These fees will be re-covered as soon as the building is brought back into use through Council Tax and Business Rates payments.

11.2. A valuation of the property was previously carried out by one of the Council's Valuation Surveyors in 2021. The estimated cost of acquiring the property through the CPO was £368,055; a copy of the valuation report is attached at Appendix D. It should be noted that the valuation used for compensation purposes will be determined on the vesting date and will differ from the 2021

valuation, as property values are subject to market fluctuations and may have changed by the completion of the CPO. At present, external valuation advice is being sought, and the Council will need to factor in the associated professional fees.

- 11.3. In addition to the property value the owner may also be entitled to claim additional heads of compensation as well as value including but not limited to: basic loss payment (7.5% of the market valuation), legal fees and surveyor fees.
- 11.4. The proceeds from the sale of the property would be used to cover the value aspect of the compensation. Owners do not always claim these sums but the Council must make provision for these sums to be claimed for a 6 year period. The compensation would need to be ring-fenced and kept in an interest accruing account for six years.
- 11.5. The Council will also need to consider the risk that the CPO may fail and the costs associated with this process will have to be absorbed by the Council which would need to be contained within existing revenue budgets.

12. Legal implications

- 12.1. The Council has powers under s226(a) of the Town and Country Planning Act 1990 to make a CPO on the basis that the acquisition of the property and its subsequent improvement would promote the economic, social, or environmental wellbeing of the area.
- 12.2. The Council has powers under s17 of the Housing Act 1985 to make a CPO on the basis that the acquisition of the property and its subsequent improvement, would achieve a quantitative or qualitative housing gain.
- 12.3. Compulsory purchase of empty buildings may be justified as a last resort in situations where there appears to be no other prospect of the building being brought back into use.

12.4. **Further Guidance on Compulsory Purchase Orders**

In promoting a CPO, the Council must use the most recent Government guidance which is Compulsory Purchase Process and The Crichel Down Rules October 2024.

Matters which must be addressed within the CPO are:

- 12.4.1. *There must be a compelling case in the public interest* – An empty property in an area of high housing demand is not acceptable where there is no good reason why the property cannot be brought into a condition suitable for residential use. The long term vacancy of the commercial area on the ground floor also negatively impacts on the vibrancy of the area. Due to its poor external appearance, the property also has a significant harmful impact on the conservation

area and neighbourhood. Should the Council acquire the Property and take appropriate action, in particular, through working with partner organisations the external improvement of the property allied to bringing it back into beneficial use of the ground floor and upper floors will have a significant beneficial impact on the appearance and vibrancy of the conservation area.

- 12.4.2. Authorities should have taken reasonable steps to acquire the interests by negotiation, where practicable. A compulsory purchase order is intended as a last resort in the event that attempts to acquire by agreement fail. Multiple attempts have been made to try and locate the owner in order to bring the property back into use but all attempts have failed as the owner is an absent landlord. Officers are satisfied that they have carried out sufficient steps to meet this criterion.
- 12.4.3. There must be a clear idea of how the Council intends to use the building and that the necessary resources are likely to be available to achieve that end within a reasonable timescale. The Council intends on bringing the property back into use and has two workable and achievable options to do so as set out in paragraph 5.3.
- 12.4.4. *Full details for the source of, and timing for, the funding of the scheme are required* – the Council already has agreed the funding to cover the compensation to acquire the building and undertake works, if necessary, but is also working with potential partner organisations to acquire the property from the Council who will then be required to undertake the necessary improvement works and bring the property back into beneficial use within a set period.
- 12.4.5. *The scheme must be unlikely to be blocked by impediments to implementation.* It is not considered that there are any likely impediments to achieving the required improvements to the property and bringing it back into a beneficial use.
- 12.4.6. On the basis of the assessment carried out by the Council it must consider that a compelling case exists before a decision is made. Officers have carried out this assessment and returning a disused building back into use will bring employment opportunities and housing, Officers are of the view that there is a compelling case in the public interest for making a compulsory purchase order.
- 12.4.7. The Council considers that there is no alternative other than to use its CPO powers to return the property to beneficial use.

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Appendices

- Appendix A – List of external works required to the Property.
- Appendix B – Photos of the exterior front and rear elevations.
- Appendix C – Plan of the Property extent and location
- Appendix D – Valuation (2021)
- Appendix E – ENF 12 0355 - s215 Notice 1
- Appendix F – ENF 25 0046 - s215 Notice 2

Background papers

None.