

**THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020
SUMMARY OF THE COMPELLING CASE PROOF**

SUMMARY OF THE STATEMENT OF EVIDENCE OF
MR. JOHN GILMAN

ON BEHALF OF DERBY CITY COUNCIL

PUBLIC INQUIRY 26 – 29 January 2021

1. Overview

- 1.1 Derby City Council ('the Council') has made the Derby City Council (Castleward) Compulsory Purchase Order 2020 ('the Order') (CD1.1), pursuant to powers available to it in section 17 of the Housing Act 1985 (CD 5.1) and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 (CD 5.2). In order to justify the making of the Order, it is necessary for the Council to demonstrate that the Order will secure either a quantitative or qualitative housing gain, and that there is a compelling case in the public interest.

- 1.2 The Compelling Case Proof draws together the evidence set out in the topic-specific Proofs, together with Council's strategic vision for Castleward. It concludes that there is a compelling case in the public interest for CPO powers to be confirmed, in order to secure both a quantitative and qualitative housing gain.

2. The Scheme and the Council's strategic vision for Castleward

- 2.1 The purpose of the Scheme, through the acquisition of the Order Land, is to provide new residential development in the CUV regeneration area, comprising further phases of the CUV, an attractive and high quality residential-led development in a key gateway location close to the Core Area. Confirmation of the CPO will provide the land and associated rights to facilitate, as a minimum, the development of 512 mixed-tenure new homes, infrastructure, public realm and public open space in a desirable and highly sustainable location.

- 2.2 The Council has taken a democratic decision to regenerate large areas of the Eastern Fringes of the City Centre, including Castleward, for this purpose. This decision is embodied in The City Centre Masterplan (CCM 2030) (CD3.1) which outlines priority regeneration projects in the City Centre and is reflected through key policies in The Derby City Local Plan Part 1 (DCLP1) (CD 3.2).

- 2.3 Policy AC6 allocates Castleward and the former Derbyshire Royal Infirmary site as Areas of Change in the City Centre and sets out specific, policy requirements that are necessary to:

- I. Deliver the required number of new homes (for Policy CP6 establishing a minimum of 800 dwellings in the Castleward area over the plan period to 2028)
- II. Create new, highly sustainable communities in the area
- III. Develop and regenerate in a comprehensive manner, areas such as Castleward, that are currently fragmented

3. The Need for The Scheme – Quantitative and Qualitative Assessments

- 3.1 Some 300,000 new homes are required annually to meet the nation's housing need. National Planning Policy Framework (NPPF) (CD 3.9) seeks to boost the supply of homes, to make effective use of land and to deliver 'sustainable development'. Locally, the City of Derby requires delivery of the 11,000 dwellings from 2011 to 2028 and is currently in shortfall. The annual delivery requirement from 2011 to 2020 has increased from 647 to 761 homes per annum.
- 3.2 There is a pipeline of 340 new dwellings within the CUV which have planning permission or are subject to a live planning application. Even if all of these are delivered, it will be necessary to deliver a further average of 60 dwellings per annum in order to fulfil the policy allocation.
- 3.3 As at 30 November 2020, the Council's Housing Register listed 6,755 households in need of affordable housing, with only 433 properties let in 2019/20. General income to house price ratios have risen over time, increasing affordability pressures that is most acute amongst first time buyers.
- 3.4 There exists a clear quantitative housing need.
- 3.5 There are also significant issues identified with the quality of the existing housing stock within Derby and around the CUV regeneration area:
 - I. The 2019 Housing Stock Condition Report identifies that properties local to the CUV are more likely to be of pre-1918 construction (48.9% of the housing stock

in Arboretum ward, which includes Castleward), more likely to be terraced houses; and more likely to be in the private rented sector.

- II. Some 18,700 private sector homes in Derby (21% of the total) are projected to fail Decent Homes standards; this is higher than the East Midlands Regional average.
- III. These failure rates are highest in the wards closest to the CUV regeneration area (Normanton 32%, Arboretum 26%, Alvaston 23%).

3.6 Clear evidence exists that significant numbers of the existing homes in this area of the City do not meet the standards for safe and healthy living accommodation.

4. Scheme Land Requirements and Negotiations to Date

- 4.1 The Order Land amounts to circa 4 hectares of land and premises. It comprises 51 plots, of which 31 interests relate to land and premises, 12 are sub-soil interests in public highway and a further 8 plots are crane over-sailing rights. In aggregate but combining linked businesses, there are 17 businesses remaining currently affected by The Order.
- 4.2 Of the 4 hectares, the Council and its partners own and control 1.6 hectares, requiring 2.4 hectares outstanding to complete the required land assembly to deliver the Scheme.
- 4.3 The remaining plots of land not in public ownership are generally fragmented and cannot be developed efficiently in isolation as they are too small and interspersed between industrial uses that are not compatible in the long term with residential use or a transformed, high quality CUV.
- 4.4 The Council has consistently engaged with landowners and businesses in Castleward to acquire interests within the Order Land and has evidenced attempts to acquire interests by mutual agreement.

- 4.5 As part of this engagement, the Council has established a dedicated Relocation Team offering assistance to affected businesses including finding relocation sites.
- 4.6 The Council has satisfied the requirements of the Guidance in relation to making reasonable attempts to acquire by agreement.

5. The Compelling Case for The Scheme - Quantitative and Qualitative Housing Benefits

- 5.1 The delivery of the Scheme fulfils the statutory and policy tests by securing both a quantitative and qualitative improvement in the Council's housing offer, within 10 years of the date of confirmation.
- 5.2 The Scheme will secure continued benefits of achieving housing growth in a sustainable urban location including a minimum of 512 new homes towards the overall DCLP1 (CD3.2) target of 11,000; helping mitigate the rising house price to income ratios as demand continues to outstrip supply.
- 5.3 New homes help reduce overcrowding with young people better able to move from family homes and access the housing ladder. Up to 30% of the new homes (subject to viability) will be affordable homes equate to up to 154 affordable homes provided on site for those in the most acute need.
- 5.4 Providing high quality, modern standards of housing accommodation in a sustainable urban location increases choice, reduces household expenditure on rent and utility bills, promotes a healthier lifestyle through private and public open space provision and raises the perception of the area thereby helping the City attract and retain economically active residents.
- 5.5 By contrast, the loss of lower quality employment land within the CUV was not considered sufficiently detrimental to warrant the refusal of planning permission for redevelopment of the area, and the Outline Planning Permission (CD2.1) was granted in 2013. The Council has put in place measures to mitigate the potential loss of jobs through relocation assistance, provision of Not Before Dates for

redevelopment and asset management principles that aim to manage transition arrangements and retain business in situ through sale and leaseback agreements.

5.6 The benefits of the Scheme decisively outweigh the dis-benefits.

6. Absence of Impediments to The Scheme

6.1 Outline Planning Permission (CD2.1) has been granted for the Scheme. Outstanding conditions can either be addressed in the normal way, or have been made the subject of Section 73 applications to vary or remove each condition, which the local planning authority has indicated it considers acceptable in principle. I am satisfied therefore that no impediments to delivery exist.

7. Funding for The Scheme

7.1 Based on initial RICS Red Book Valuations, the total anticipated costs of acquiring and compensating all necessary interests within the Order Land has been estimated at circa £6.8 million. Anticipated additional expenditure including on site enabling works and the CPO process total a further £1.0 million (rounded).

7.2 Funding for these costs is being provided through a mix of central government (via Homes England) and local government finance totalling circa £5.0 million together with a contribution of £2.8 million from developer partner Compendium. Compendium has also committed a contingency of £680,000 equivalent to 10% of the £6.8 million compensation estimate.

7.3 The Council is committed to funding the costs of a successful CPO proposal and will underwrite any additional costs that may arise from settlement of the compensation and disturbance claims arising from the acquisition of the Order Land, as per ACQ/5C/3.

8. Proposals for Delivery

- 8.1 The CUV partnership have already delivered Phases 1 and 2a of the CUV totalling 218 new homes, commercial units, public realm and public open space. Site assembly for the next Phase (3a) within the Order Land of 82 homes has now been achieved and reserved matters approval is in place. Site enabling works will commence in January 2021. Phase 2b is consented for 258 dwellings and is being brought forward by “Liversage Street (Derby) Limited and John Street (Derby) Limited”, outside the framework of the Outline Planning Permission. Construction is anticipated to commence Summer 2021.
- 8.2 A detailed Development Agreement, CPO Indemnity Agreement and regular Strategic Core Group meetings creates strong contractual and partnership governance, which coupled with Compendium’s delivery track record and internal funding arrangements gives the Council high levels of confidence in Compendium’s continued ability to deliver future development phases within the Order Land.

9. Human Rights and Equalities

- 9.1 In exercising its powers, the City Council has fully complied with its obligations pursuant to the Human Rights Act 1998 and the European Convention on Human Rights (“the Convention”).
- 9.2 In line with the Equality Act 2010 the Council has undertaken an Equalities Impact Assessment (EQIA) as part of its decision-making exercise, considering the impacts, if any, of the proposals on those affected. Following an updated assessment in November 2020 it remains the case that the Council is mitigating potential negative impacts of the CPO and that the Scheme is consistent with its Public Sector Equality Duty.

10. Outstanding Objections

- 10.1 At the date of this Proof there are five outstanding objections to the Order from Tarmac Trading Group Ltd, Midcastle Ltd, Hawkins & Shepherd Ltd, Liversage

Street (Derby) Ltd / John Street (Derby) Ltd and Anthony Ross / Derby Auto Electrical Services Ltd. My main Proof summarises all objections and provides rebuttal of their respective grounds for objection insofar as they relate to my subject matter area.

11. Conclusion

- 11.1 The evidence in this statement and my main Proof concludes that there is a compelling case in the public interest for the use of CPO powers to acquire the Order Land.

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STATEMENT OF EVIDENCE OF MR. JOHN GILMAN

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PUBLIC INQUIRY 26 – 29 January 2021

1. QUALIFICATIONS AND EXPERIENCE

- 1.1. My name is John L Gilman. I hold a Bachelor of Science in Urban Land Economics from Sheffield Hallam University.
- 1.2. I have been a Principal Regeneration Manager at Derby City Council ("**the Council**") since October 2017 and I am Programme Manager for the Castleward Urban Village ("**CUV**") regeneration initiative within the Council's Regeneration and Major Projects Team. This has been an exclusive role for the past two years. The Regeneration and Major Projects Team's remit is to facilitate, manage and undertake development projects to support the economic, social and environmental well-being of the City of Derby.
- 1.3. I have over twenty-five years' experience in the public, private house building and not-for-profit sectors, dealing with a wide range of complex residential-led regeneration and partnership projects. This included being Project Director for 6 years whilst at Miller Homes (North West), leading a Housing Market Renewal Framework Agreement with Salford City Council and a New Deal for Communities Programme in Central Salford.
- 1.4. My involvement with CUV as Programme Manager is to oversee the inception and implementation of projects and initiatives within "**Castleward**" to further the objectives of the City Centre Masterplan 2030 ("**CCM 2030**"), adopted planning policy and associated decisions taken by the Council's Cabinet. This has included making the business case for the compulsory purchase order ("**CPO**") and progressing all the subsequent stages to date.
- 1.5. In addition, I was responsible for securing both the Housing Infrastructure Fund ("**HiF**") and Local Growth Fund allocations for Castleward that have so far contributed towards the CPO process and the financing of the new Primary and Nursery School. As such, I am very familiar with the scope of regeneration activity in Castleward, and the details of the phased development underlying the proposed scheme ("**the Scheme**").

2. SCOPE AND STRUCTURE OF EVIDENCE

- 2.1. This proof of evidence will demonstrate the compelling case for the use of compulsory purchase powers ("**CPO powers**") to acquire land subject to the Derby City Council (Castleward) Compulsory Purchase Order 2020 ("**the Order**") (CD 1.1), which has been made pursuant to section 17 of the Housing Act 1985 (CD 5.1) and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 (CD 5.2). The requirement to demonstrate a compelling case in the public interest is set out in the Ministry of Housing, Communities and Local Government's Guidance on *compulsory purchase process and the Crichel Down Rules* (July 2019) ("**the Guidance**") (CD 3.10).
- 2.2. Furthermore, this proof will consolidate the evidence presented in the specific Housing Need, Negotiations, Planning, Delivery and Funding proofs, which demonstrate that the use of CPO powers will, if approved, result in a much needed qualitative and quantitative gain in housing provision within Derby City Centre ("**City Centre**").
- 2.3. In addressing the above matters my evidence is structured as follows:
- I. Section 3 – The CUV regeneration area and the Order Land
 - II. Section 4 – The Scheme and the Council's Strategic Vision for Castleward
 - III. Section 5 – The Need for the Scheme
 - IV. Section 6 – Scheme Land Requirements and Negotiations to Date
 - V. Section 7 – The Compelling Case for The Scheme
 - VI. Section 8 –Absence of Impediments to the Scheme
 - VII. Section 9 – Funding for the Scheme
 - VIII. Section 10 – Proposals for Delivery
 - IX. Section 11 – Human Rights and Equalities
 - X. Section 12 – Outstanding Objections
 - XI. Section 13 – Conclusions
 - XII. Section 14 – Declaration and Statement of Truth

3. THE CUV REGENERATION AREA AND THE ORDER LAND

3.1. The CUV regeneration area

- 3.1.1. The CUV regeneration area, of which the **“Order Land”** (CD 1.2) forms part, extends to circa 12 hectares of brownfield land on the eastern fringe of the City Centre. It is situated between the Inner Ring Road (Traffic Street) immediately to the west, Siddals Road immediately to the north, London Road to the south and Railway Terrace immediately to the east. This area is an internal Council project boundary shown edged blue on the plan (ACQ/5C/1). The Order Land is shown edged red and shaded pink. The CUV regeneration area is considered to occupy a strategic position within the City Centre, between the **“Core Area”** and **“Railway Station”**.
- 3.1.2. The CUV regeneration area currently comprises a wide range of uses including offices, low-grade industrial, car showrooms, a petrol filling station, warehousing, community and leisure uses, and new-build residential. It also contains a large amount of surface car parking, although the former Sovereign Car Park is now being redeveloped for a primary and nursery school.
- 3.1.3. Proposals for the CUV regeneration area comprise both affordable and market housing; improvements to the physical environment; further public realm improvements including the provision of new public open space; a new school (including possible community provision) as mentioned above; and significant office and commercial development.
- 3.1.4. Development of the wider CUV has been underway since 2014. The first phase of 164 dwellings was completed in 2016 and a second phase of 54 dwellings completed in November 2020. Neither of these phases required the use of CPO powers by the Council.

3.2. The Order Land

- 3.2.1. The Order Land comprises 51 plots within approximately 4 hectares of land situated in the north and central portion of the CUV regeneration area. The Order Land is bounded by Liversage Street to the northwest, Siddals Road to

the north, Canal Street to the southeast and Castleward Boulevard to the south, as shown on the Order Map (CD 1.2).

3.2.2. The area is intersected by two public vehicular highways, with John Street dissecting the site in a north/south direction (cul-de-sac at the south end joining Castleward Boulevard) and New Street from west to east (connecting from John Street to Canal Street).

3.2.3. The Order Land excludes certain parcels of existing residential and commercial property uses that are compatible with the Council's strategic vision for Castleward in their existing form; namely a flatted development, Castle House, accessed from John Street, and Beechwood Mazda car showroom adjacent to the Order Land at the corner of Siddals Road and Liversage Street.

3.2.4. The Order Land comprises land in wholly commercial uses, together with sub-soil freehold interests within adopted highways and new rights sought for the purposes of carrying out the development comprising the Scheme, namely rights to over-sail land with loaded or unloaded cranes.

3.2.5. The range of different commercial uses present within the Order Land includes:

- I. Concrete batching plant
- II. Local authority depot used to maintain salt spreaders and police vehicles
- III. Vehicle repair garages and workshops
- IV. Kitchen and bathroom showroom
- V. Plumber's merchants
- VI. Electrical suppliers
- VII. Food ingredient manufacturer
- VIII. Street food market
- IX. Timber supplies
- X. Music recording studio
- XI. Tattooist

- XII. Sandwich shop
- XIII. Privately run car park
- XIV. Clothing manufacturers
- XV. Education supplies
- XVI. Warehouse / storage

3.2.6. Buildings are characterised by purpose built commercial units and depots generally dating from around the 1970s, although some are older. The overall quality of the built environment within the Order Land is low. There is no lawful residential use within the Order Land.

4. THE SCHEME AND THE COUNCIL'S STRATEGIC VISION FOR CASTLEWARD

4.1. The Scheme

4.1.1. As detailed in the Council's Statement of Case, "**SoC**" (CD 1.5), the purpose of the Scheme, through the acquisition of the Order Land, is to provide new residential development in the CUV regeneration area comprising further phases of the CUV, an attractive and high quality residential-led development in a key gateway location close to the City Centre.

4.1.2. The CPO will provide the land and associated rights to facilitate, as a minimum, the development of 512 mixed-tenure new homes, infrastructure and public realm including a mix of both private and public open space in a desirable and highly sustainable location. The exact numbers of new homes will be subject to detailed design and in response to market demand, but current average development densities in Castleward support this figure. In any event, the figure is a minimum requirement of the Council's funding agreement with "**Homes England**". The benefits of the Scheme, as set out in the Council's evidence, assume that only the minimum number of new dwellings are delivered.

4.1.3. A mix of tenures and range of property types will encourage a diverse and inclusive community to develop in a neighbourhood well placed to reduce dependence on the car.

4.1.4. Development will be coherent in accordance with the existing "**Outline Planning Permission**" (CD 2.1) and planning policy. It will be self-contained and not rely on the development of any further land beyond the Scheme.

4.1.5. The Scheme will contribute significantly to the revitalisation of communities and quality of life improvements as envisaged in the Guidance.

4.2. The Council's Strategic Vision for Castleward Urban Village

4.2.1. The Council's strategic vision for the CUV can be discerned principally from the

Derby City Centre Masterplan (CCM) 2030 (CD 3.1) and the Derby City Local Plan 2011-2028 (“**DCLP1**”) (CD 3.2).

4.2.2. The CCM 2030 (published in 2016) sets out the strategic context for investment opportunities in the City over the period 2015-2030, demonstrating the Council’s commitment to the regeneration of the City Centre. By 2030, the CCM 2030 aims to leverage £3.5 billion in investment, create 4,000 new jobs and deliver 1,900 new homes.

4.2.3. The CCM 2030 has been conceptualised by the business community in partnership with the Council. Business and investment partners include Vibrant City Partnership, a sub-group of Derby Renaissance Board, which has a wide-ranging membership including key organisations and businesses in the City Centre. The CCM 2030 aims to achieve ten key ambitions to ensure the continued regeneration of the City Centre into a vibrant place as a City of Choice, a Business City, a Living City and a Connected City. The CUV is considered key to delivering the “Living City” ambition through sustainable City Centre development providing lifestyle and housing choice.

Derby City Local Plan Part 1 (DCLP1)

4.2.4. The DCLP1 (CD 3.2) was adopted in January 2017 and forms the main part of the Council's adopted planning policy. It is the principal document which guides development and planning decision-making in the City. The DCLP1 was originally intended to comprise two parts, but to date only Part 1 – the Core Strategy 2017 - has been adopted.

4.2.5. Section 4 of the evidence of Mr Pheasant describes the relevant local planning policy in greater detail. Below I have articulated the key elements which, in combination with the “**Outline Planning Permission**” (CD2.1) detailed below, have guided decision making and support the compelling case for CPO.

4.2.6. The strategy for Derby is set out in Section 4 of the DCLP1 (Page 11). Key to the

strategy is 'delivering growth'. One of the main purposes of the plan is to set out policies which will meet the Council's 'Objectively Assessed Housing Needs' (OAHN) as per Mr Pheasant's Planning proof. About one-third of the OAHN is being met outside the City boundary in the borough of Amber Valley and South Derbyshire District Council by agreement of those relevant authorities. Section 4 and Policy CP6 of DLCP1 therefore sets the housing requirement as a minimum of 11,000 high quality, mixed-tenure new homes to be delivered in the City between 2011 and 2028.

4.2.7. The delivery strategy to meet this evidenced housing need includes the allocation of a number of specific sites and locations. Table 2 of Policy CP6 identifies areas with site-specific policies, which includes Castleward. Castleward is required to deliver a minimum of 800 new homes over the plan period (by 2028) and policy AC6 sets out further details.

4.2.8. Policy AC6 allocates Castleward and the former Derbyshire Royal Infirmary Site ("**DRI**") as areas of change in the City Centre and sets out specific, policy requirements that are necessary to:

- I. Deliver the required number of new homes
- II. Create new, highly sustainable communities in the area
- III. Develop and regenerate in a comprehensive manner, areas such as Castleward, that are currently very fragmented

4.2.9. The Policy states that:

"The Eastern Fringes of the City Centre will be transformed into a vibrant residential and commercial neighbourhood where people will enjoy a high quality of life within a distinctive, accessible and sustainable urban environment. New residential neighbourhoods will be created in Castleward and the former DRI site, which will be complemented and supported by a mix of commercial, leisure and community uses that will also serve to support the wider economy of the City Centre".

4.2.10. The policy also establishes that the Council will use CPO powers to deliver the Local Plan (DCLP1) requirements if necessary.

4.3. **Outline Planning Permission**

4.3.1. As described in the evidence of Mr Pheasant, the majority of the CUV regeneration area benefits from Outline Planning Permission for residential-led mixed-use development of up to 840 dwellings. It is the Council's intention that the Scheme will be delivered through the further implementation of this planning permission.

5. THE NEED FOR THE SCHEME

5.1. Quantitative Housing Need

National Housing Need

5.1.1 As detailed in section 4 of the Housing Need proof of Mr Gillie, at a national level there remains a chronic shortage of housing. A minimum of 300,000 dwellings per annum nationally are now required to meet housing requirements. 240,000 homes were completed in 2019, the highest total since the previous peak in 2007/2008, but this is still insufficient to meet increasing demand and to remedy long-term under delivery.

5.1.2 Government policy and guidance has established an ever-increasing need for housing and in particular, since 2016, the question has been considered by Parliament at frequent intervals, the output of which work is set out by Mr Gillie.

5.1.3 Ultimately, this has informed the policies for the delivery of housing that are set out in the National Planning Policy Framework (“NPPF”), which had initially been published in 2012 (CD 3.11), but was revised in 2018 and again in 2019 (CD 3.9). The current version makes clear that it is the Government’s objective to significantly boost the supply of new homes. It also confirms in paragraph 119 that *“local authorities must take a leading role in meeting their assessed levels of housing need, including removing barriers to development and assembling land for new homes where necessary.”*

5.1.4 This issue remains a live one, with Mr Gillie’s proof referring to the House of Commons Library paper, *Tackling the Under-Supply of Housing in England*, published in March 2020 and the August 2020 Planning White Paper; collectively these examine the impact on housing need of over-crowding, unfit dwellings and increasing prices arising from a persistent under supply of housing.

Local Housing Need

5.1.5 At a local level within Derby, as detailed in the proofs of Mr Gillie and Pheasant, and as noted above, the Objective Assessment of Housing Need is for 16,388 new

dwellings over the plan period of 2011 to 2028, albeit the City has capacity for only 11,000 of these, which is therefore the City's adopted housing requirement for the plan period.

- 5.1.6 Mr Gillie's proof confirms that, as at March 2020, a net increase of 4,909 new homes have been delivered. This is an under supply compared to the number of dwellings that ought to have been delivered to date in order to achieve the DCLP1 requirement, and increases the annual requirement to 761 dwellings over the remaining life of the Plan period if the requirement is to be met. This reinforces the need for continued sustainable development.
- 5.1.7 As detailed in the proof of Mr Pheasant and in Section 4 above, the adopted DCLP1 Policy AC6 allocates Castleward as a key area of housing growth, which must deliver a minimum of 800 homes by 2028 to help contribute to Derby's housing need. Outline Planning Permission is in place for 840 new homes and complementary mixed-use commercial development.
- 5.1.8 As of November 2020, a total of 218 homes have been delivered through the development of the first two phases of the CUV, together with 12 commercial units, open space and public realm. There is a pipeline of 340 dwellings within the CUV which have planning permission or are subject to a live planning application, leaving a minimum of 242 further dwellings. The existing pipeline will take a minimum of 3 years to be delivered. This will require an average of 60 new dwellings per year assuming all planned dwellings are delivered.
- 5.1.9 The City of Derby has seen similar trends in home ownership and affordability to the rest of the country, with rising ratios of house prices to earnings since the start of the century. The trend is more acute in the first-time buyer market. The ratio of median house price to median gross annual income in Derby rose from 3.13 in 2002 to 5.42 in 2019, as per Mr Gillie's Housing Need proof. Failure of the CUV to deliver the target contribution of Castleward to the DCLP1 risks driving a continued worsening of the price income ratios, increased overcrowding and

young people less able to move from the family home.

Demand for and Supply of Affordable Housing

5.1.10 The evidence of Mr Gillie also establishes that Derby currently experiences a significant under-provision of affordable housing with specific demographic need, which can be summarised as follows:

- I. As at 30 November 2020, the Council's Housing Register listed 6,755 households in need of affordable housing, because their current accommodation did not meet their needs. This comprised 3,397 single people or couples and 3,358 families with children. The greatest need stems from overcrowding, followed by medical or welfare need to move and live in otherwise unsatisfactory conditions.
- II. The average rate of Council housing lettings over the past 3 years of 608 homes per annum compares with a declining annual total of new lettings since 2013/14, with only 433 properties let in 2019/20.
- III. Since 2015, a total of 653 new affordable homes have been built or acquired by the Council, whilst over the same period 842 council homes have been lost under Right to Buy sales resulting in a net loss of 189 homes.
- IV. Housing Register entries denote that need is most acute for affordable one bedroom and four bedroom properties; albeit there is take up of 2 bedroom homes and these affordable homes were provided by "**Compendium**" in Castleward have all now been let.

Summary on quantitative housing need

5.1.11 In summary, the evidence confirms a substantial and increasing housing need in the City of Derby. The lack of housing supply to meet the demand is adding pressure on affordability for first time buyers or renters. Greater provision of both market and affordable housing in the CUV are required if the City's Local Plan (DCLP1) needs are to be met.

5.2 Qualitative Housing Need

5.2.1 Again, drawing on section 4 of the evidence of Mr Gillie, there are significant issues identified with the quality of the existing housing stock within Derby and around the CUV regeneration area, which can be summarised as follows:

- I. The Housing Stock Condition Report last published in 2019 identifies that properties in the area surrounding the CUV are more likely to be of pre-1918 construction (48.9% of the housing stock in Arboretum ward, which includes Castleward), are more likely to be terraced houses, and more likely to be in the private rented sector.
- II. Based on the English Housing Survey's findings that estimate the likelihood of each individual property in the City failing the "**Decent Homes**" standard, or suffering from a hazard as defined by the Housing Health and Safety Rating System (HHSRS); some 18,700 private sector homes in Derby (21% of the total) are projected to fail Decent Homes standards; this is higher than the East Midlands Regional average.
- III. These failure rates are highest in the wards closest to the CUV regeneration area (Normanton 32%, Arboretum 26%, Alvaston 23%).

5.2.2 There is therefore evidence that significant numbers of the existing homes in this area of the City do not meet the standards required to provide safe and healthy living accommodation. The overall profile of housing in the City and around the CUV regeneration area is one of poor quality, older housing stock that does not meet modern standards.

6. SCHEME LAND REQUIREMENTS AND NEGOTIATIONS TO DATE

6.1. Description of interests required for the Scheme

6.1.1. The Order Land (CD 1.2) comprises 51 plots in total. In respect of 43 plots, the land is to be acquired. In respect of the remaining 8, only rights (crane oversailing) are required.

6.1.2. The Order Land, in total, comprises approximately 4 hectares. Table 1 below shows how the Order Land is presently used.

Table 1: Summary of the Order Land

Total Number of plots	51
Land or Land and premises	31
Businesses known still to be trading Collaborate and Innovate Ltd, (“Cosy”), Willow Coffee and Derby Timber Supplies have already relocated, whilst Hawkins and Shepherd are pursuing extinguishment compensation in accordance with their Blight Purchase Notice	23 (17 if counting one as a linked trade showroom business)
Public highway (including sub-soil rights)	12
Rights sought for crane oversailing	8
Total area of the land	4.0 hectares
Area owned / controlled by the CUV partnership	1.4 hectares (35.8%)
Land required to deliver the Scheme (including sub-soil interests)	2.6 hectares (64.2%)

6.1.3. Table 2 lists plots currently owned or controlled by the Council or its partners, Compendium Living and Homes England.

Table 2: Summary table showing plots in control of the partnership

Plot ref (CD 1.2)	Description	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981		
		Owners or Reputed Owners	Lessees or Reputed Lessees	Occupied business
6	Land and premises	Compendium Living		Relocated ¹
7	Public highway	Compendium Living		No
9	Public highway	DCC		No
17	Land and premises	DCC	Homes England	Yes
25	Public highway	DCC		No
26	Public highway	DCC		No
27	Land	DCC		No
28	Land and premises	DCC	Homes England	Relocated ²
29	Land and premises	Homes England		Yes
33	Land and premises	DCC		No
39	Land and premises	DCC	Homes England	No
40	Land and premises	DCC	Homes England	Relocated ³
42	Public highway	DCC		No
43	Public highway	Compendium Living		No
44	Land and premises	Compendium Living		No
46	Public highway	DCC		No
47	Land and premises	DCC	Homes England	No

¹ Cosy Direct (72 FTE) have relocated.

² Willow Coffee (8 FTE) have relocated.

³ Bustler Market (1 FTE) have relocated temporarily to plot 6, a later phase within the Order Land.

6.1.4 The Scheme requires the acquisition of a further 2.4 hectares (64.2%), listed below in Table 3 (see below the table for an explanation of the highlighting).

Table 3: Land plots to be acquired (including subsoil interests)

Plot ref	Description	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – Name and Address		
		Owners or Reputed Owners	Lessees or Reputed Lessees	Occupied business
2	Public highway	DCC, plus various subsoil interests		No
8	Land and premises	DCC	Mr & Mrs Hawkins	Yes
10	Public highway	DCC plus various subsoil interests		No
11	Land and premises	Booler Trustees and Key Brothers	Derbyshire County Council	Yes
12	Public highway	DCC plus various subsoil interests		No
13	Public highway	DCC plus various subsoil interests*		No
14	Land and premises	1) Stantons 2) JLT trustees		Yes
15	Land and premises	DCC (was Mrs Rayson)	Tarmac	Yes
16	Land and premises	DCC	Midcastle	Yes
18	Land	DCC	HE, Bulmer, M&B Motors	Yes
19	Land and premises	DCC	HE, Bulmer, M&B Motors	Yes
20	Land and premises	Stantons and JLT trustees		Yes
21	Public highway	DCC	HE & Bulmer	Yes
22	Land	Liversage Street (Derby) Limited	NCP	No
23	Land and premises	Stantons and JLT trustees	CenturyLink**	Yes
24	Land and premises	Mr A Ross	DAES	Yes
30	Land and premises	DCC	Midcastle	Yes
31	Land and premises	DAES		Yes
32	Land and premises	MJS Fabrications		Yes

34	Land and premises	DCC	Mr & Mrs Pachel, DTS	Yes
35	Land	Mr & Mrs Cotton		Yes
36	Land and premises	MJS Fabrications		Yes
37	Land and premises	John Street (Derby) Limited		No
38	Land and premises	Mr & Mrs Cotton		Yes
41	Land and premises	Stantons and JLT trustees		Yes
45	Land and premises	C&N Property	Moguntia Food	Yes

Key of highlighted interests

Blue denotes an outstanding objector to the CPO.

Green indicates acquired by negotiation to date.

*Compensation agreement with Western Power Distribution removing CPO objection.

**Compensation agreement with CenturyLink Telecommunications UK Ltd removing CPO objection.

6.1.5 Table 4 lists the plots over which rights are sought for Crane Over-Sail.

Table 4: Rights sought for crane-oversailing

Plot ref	Description
48	Land and premises – Siddals Road
49	Land and premises – John Street
50	Land and premises - Canal Street
51	Land and car park - Canal Street
52	Land and car park - Canal Street
53	Land and car park - Canal Street
54	Land and premises - Canal Street
55	Electricity sub-station - Canal Street

6.2 The Need for the CPO to assemble the Order Land

- 6.2.1 Land that has been successfully acquired and assembled and that comprises sufficient scale and size has now been brought forward for residential redevelopment. The first two phases (Phases 1 and 2a) of the regeneration referred to in Section 5.1.8 have now been completed. A development phasing plan (CD 4.2) shows a further phase, known as Phase 2b comprising the objector's land secured by "**Liversage Street (Derby) Ltd and John Street (Derby) Ltd**", subsidiaries of Elevate Developments Ltd, which is intended to be brought forward for residential redevelopment.
- 6.2.2 Despite there being some land remaining in an undeveloped state that is in the CUV partnership ownership, these plots of land are fragmented and cannot be developed in isolation as they are too small and interspersed between industrial uses that are not compatible in the long term with residential use or a transformed, high quality CUV.
- 6.2.3 The piecemeal development of individual parcels within the Order Land is an unacceptable alternative, as it would be a highly inefficient use of land, lacking in coherent design and requiring residential occupiers to live among various light industrial uses for an indefinite period. Overall, this would undermine the Council's vision for the CUV which, as outlined in Sections 4 and 5 above, is to create a renewed environment to promote a thriving and sustainable community.
- 6.2.4 Moreover, the Council and its partners would lack any control over timescales, and thus the grant funding now available to realise the Scheme would need to be returned, and the development halted altogether. There would, furthermore, be no certainty of any delivery.
- 6.2.5 The delivery of further phases of the CUV pursuant to the powers conferred by the CPO will continue the transformation envisaged in the DCLP1, replacing industrial uses with well-designed modern homes, introducing greenery and a high quality public realm, and increasing the levels of pedestrian activity between

the Railway Station area and the City centre. All this will create an attractive place to live, provide a mix of dwellings including affordable housing that addresses the quantitative and qualitative housing need detailed in Section 5 above; and improve perceptions of the City.

6.3 The Council's Approach to Negotiations

- 6.3.1 Page 6 of the Guidance (CD 3.10) addresses when compulsory purchase powers should be used. It advises that acquiring authorities should use compulsory purchase powers where it is expedient to do so. However, a compulsory purchase order should only be made where there is a compelling case in the public interest.
- 6.3.2 The acquiring authority is expected to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement; compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of the scheme. However, the Guidance also recognises that if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost. Therefore, depending on when the land is required, it may often be sensible to commence the compulsory purchase process, whilst at the same time as negotiating the acquisition of land interests by mutual agreement.
- 6.3.3 As set out in the proof of Ms Lister (Negotiations witness), the Council has consistently engaged with landowners and businesses in Castleward to acquire interests in the Order Land by mutual agreement.
- 6.3.4 As part of this engagement, relocation assistance has been offered by the Council also as set out in Ms Lister's Proof.
- 6.3.5 I summarise in Table 5 (below) the current status of negotiations. Having regard to the Guidance and the detail of all negotiations contained in Ms Lister's evidence, including the offer of relocations assistance, I am satisfied that the

Council has made reasonable attempts to acquire by negotiation.

Table 5 Summary of Negotiations with objectors

Plot ref	Extent, Description and Situation of the Land	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – Name and Address		
		Owners or Reputed Owners	Lessees or Reputed Lessees	Current Position
8	Land and premises	DCC	Hawkins and Shepherd	A blight notice has been submitted by Hawkins and Shepherd and accepted and deemed notice to treat is therefore in place. Negotiations attempted in respect of the acquisition of the long leasehold interest which currently reside with Mr and Mrs Hawkins' representatives, Carter Jonas. Claim for compensation is anticipated to be submitted within the next few weeks. Carter Jonas confirmed that the Objection to the CPO is likely to be withdrawn, pending written instructions being received from their client.
15	Land and premises	The Council (formerly owned by Mrs Rayson)	Tarmac Trading Ltd ("Tarmac") (objector to the Order)	Following the Council's recent acquisition of the freehold interest, an offer has been made to Tarmac on 25 th November for the termination of their existing lease and grant of a

Plot ref	Extent, Description and Situation of the Land	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – Name and Address		
		Owners or Reputed Owners	Lessees or Reputed Lessees	Current Position
				<p>new short lease to enable time for a relocation site to be identified.</p> <p>Tarmac is not satisfied by the offer and has requested a further meeting, which took place on 7th December.</p> <p>Tarmac repeated that they were not prepared to accept the offer as this was unreasonable and were taking further legal advice and no response has been received since. Relocation assistance continues to be provided by Pratima Balaghee, Marketing Derby and myself in terms of finding a relocation site.</p>
16	Land and premises	The Council	Midcastle (objector to the Order)	<p>Communication received from Midcastle to say they are unable to engage in discussions until January 2021 due to ongoing difficulties with continuing to operate the business during the pandemic. An estimate of market value of the property interests has been provided and will also be discussed in January 2021. A response was received from Midcastle's surveyor (Mather Jamie) following a request to see if</p>

Plot ref	Extent, Description and Situation of the Land	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – Name and Address		
		Owners or Reputed Owners	Lessees or Reputed Lessees	Current Position
				negotiations could be entered into with Mather Jamie on Midcastle's behalf in advance of the CPO. On 15 th December Mr Hotchin from Mather Jamie responded to advise he is awaiting client instructions.
22	Land	Liversage Street (Derby) Ltd and John Street (Derby) Ltd Objector to the Order	NCP	Liversage Street (Derby) Ltd and John Street (Derby) Ltd are an objector to the Order and terms have been agreed between the owner and DCC to enable the objection to be withdrawn. National Car Parks (NCP) occupy by way of a formal lease with a break option in the landlord's favour on a rolling basis, enabling the lease to be terminated upon 12 months' notice. Therefore, there have been no negotiations with NCP. A copy of the lease has been provided by Liversage Street (Derby) Ltd and John Street (Derby) Ltd, which confirms the break clause in the lease.
24	Land and premises	A Ross (Objector to the Order)	DAES	Dialogue commenced with Carter Jonas representing Mr Ross in January 2020 and it was agreed that

Plot ref	Extent, Description and Situation of the Land	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – Name and Address		
		Owners or Reputed Owners	Lessees or Reputed Lessees	Current Position
				<p>an inspection be undertaken of the subject properties so as to enable Thomas Lister to prepare an estimate of market value. The inspection was undertaken on 5th March and an estimate of value in the process of being prepared. Mr Ross has objected to the CPO and in response a ‘before date’ of March 2024 confirmed, though changed to January 2024 was provided in May 2020, along with an offer to acquire the property interest in advance of the not before date if Mr Ross required. No response was received to this correspondence until after the Pre-Inquiry meeting on the 9th November. Mr Ross is intending to extinguish his business and retire, which he is eligible to do by virtue of his age. Carter Jonas subsequently issued Heads of Terms for a Mitigation Agreement requiring the Council to agree to meet all property acquisition and compensation costs associated with the extinguishment of the business irrespective of</p>

Plot ref	Extent, Description and Situation of the Land	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – Name and Address		
		Owners or Reputed Owners	Lessees or Reputed Lessees	Current Position
				<p>whether the Council secures statutory powers and the Scheme proceeds or otherwise. A notice period of 12 months is also required to be provided to enable Mr Ross time to extinguish the business and mitigate loss. A meeting was held to discuss this agreement on 16th November, following which revised Heads of Terms were issued to Carter Jonas which were not accepted. Carter Jonas issued revised terms for the Mitigation Agreement on the 9th December, which following review by the Council have been rejected on the grounds that the terms proposed are not acceptable. Carter Jonas were advised of this position on the 17th December and a response is awaited. Carter Jonas had stated that if the Mitigation Agreement is not in place, a Blight Notice will be served on the Council by DAES as owner occupier of one property and tenant of the other property.</p>

Plot ref	Extent, Description and Situation of the Land	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – Name and Address		
		Owners or Reputed Owners	Lessees or Reputed Lessees	Current Position
30	Land and premises	DCC	Midcastle (Objector to the Order)	The current position is as for land reference no. 16 above.
31	Land and premises	DAES (objector to the Order)		The current position is as for land reference no. 24 above.
37	Land and premises	John Street (Derby) Limited (objector to the Order)		As for land referencing number 22.

7. THE COMPELLING CASE FOR THE SCHEME

7.1 The statutory and policy tests

7.1.1. Section 17(1)(a) Housing Act 1985 (“1985 Act”) (CD 5.1) provides that a local housing authority, the Council in this instance, *“may for the purposes of this Part acquire land as a site for the erection of houses”*.

7.1.2. Section 17(2) of the 1985 Act provides that, *“The power conferred by subsection (1) includes power to acquire land for the purpose of.... disposing of the land to a person who intends to provide housing accommodation”*.

7.1.3. Section 17(3) provides that *“Land may be acquired by a housing authority for the purposes of this Part by agreement, or they may be authorised by the Secretary of State to acquire it compulsorily”*.

7.1.4. Section 17(4) provides that *“A local housing authority may, with the consent of, and subject to any conditions imposed by, the Secretary of State, acquire land for the purposes of this Part notwithstanding that the land is not immediately required*

for those purposes; but an authority shall not be so authorised to acquire land compulsorily unless it appears to the Secretary of State that the land is likely to be required for those purposes within ten years from the date on which he confirms the compulsory purchase order.”

7.1.5. The Guidance at paragraph 146 provides that, “*Section 17 of the Housing Act 1985 empowers local housing authorities to acquire land, houses or other properties by compulsion for the provision of housing accommodation. Acquisition must achieve a quantitative or qualitative housing gain*”.

7.1.6. The delivery of the Scheme fulfils the statutory and policy tests by securing both a Quantitative and Qualitative improvement in the Council’s housing offer, within 10 years of the date of confirmation of the CPO. The Quantitative and Qualitative improvement is covered below, whilst the timetable for delivery is set out in section 10.

7.2. Quantitative improvement in the Council’s housing offer

7.2.1. The Scheme will secure continued benefits of achieving housing growth in a sustainable urban location. These benefits can be summarised as follows:

- I. The Scheme will deliver a minimum of 512 new homes towards the overall DCLP1 target of 11,000. This is a significant figure, with the CUV regeneration area overall being one of the largest housing allocations in the City capable of contributing towards the current annual requirement of 761 new dwellings per annum.
- II. By increasing the supply of new market homes for sale, this mitigates the rising of house prices to income ratios as demand continues to outstrip supply in Derby and nationally.
- III. The opportunity to reduce overcrowding, with young people better able to move on from the family home and access the housing ladder. This objective is promoted nationally on new build housing through Mortgage Assistance from the government or other Shared Equity products such as Help to Buy.

- IV. Up to 30% of the new homes (subject to viability) will be affordable homes. If the minimum 512 dwellings are built, this would equate to 154 affordable homes for those in the most acute need, provided on site in partnership with our Developer Partner, Compendium.
- V. By providing additional market and affordable homes the Scheme will retain and attract a spectrum of economically active residents and employees, helping to sustain Derby's economy; especially the "**Core Area**" through the spend of disposable income and major employers such as Rolls Royce through a supply of skilled labour. These benefits are further promoted in the longer term where homeowners accumulate equity and therefore additional disposable income and remain in the City as long-term residents.

7.3. Qualitative improvement in the Council's housing offer

7.3.1. The Scheme will secure the benefits of achieving high quality, modern standards of housing accommodation in a sustainable urban location. These benefits can be summarised as follows:

- I. Increased choice of good quality homes that provide modern standards of accommodation, catering for demographic needs through a range of housing types, both market and affordable.
- II. New homes to be provided will meet or exceed modern Building Regulations standards, providing well insulated and low maintenance homes, helping to reduce fuel poverty and mitigating future expenditure on the fabric of buildings.
- III. New homes in Castleward feature amenity space around dwellings comprising private gardens and a mix of public and communal private open space; thereby increasing options for people looking to move from a lower quality home in Derby to one where they can enjoy a healthier lifestyle. This is considered increasingly important in a post Covid-19 world.
- IV. New homes in Castleward provide close and easy access to local shops and amenities including the City Centre Shopping Area / City Centre Core and

public transport, without over reliance on the use of private car.

- V. A raising of the quality of the City's "housing offer" to attract people looking to move to Derby, e.g. for work reasons. At present, Derby is not capturing the full economic benefit of having major and high-paying employers such as Rolls Royce and Bombardier based in the City. Many workers commute from outside the City, and it is likely that the relatively poor quality of the housing offer and the neighbourhoods close to these employment sites is a factor in this – the prevalence of poor quality private rented accommodation, especially conversions of existing dwelling houses to HMOs, is undermining the quality of housing in nearby Wards within the City. The Scheme will help address this by providing a step-change in local accommodation standards.

7.4. Additional social, economic and environmental benefits

7.4.1. Delivery of the Scheme represents a significant investment in a key strategic development site, the benefits of which will be considerable to the social, environmental and economic well-being of the Council's area, including by means of:

- I. Delivery of a variety of housing types to accommodate population growth in the City to support City Centre retail, leisure and other economies and, in particular, provide a living environment and offer that is not currently available in the City in a sustainable location adjacent to the City Centre and with excellent public transport connections
- II. Yielding improved environmental conditions through shorter commuting times and the use of more sustainable forms of transport, such as walking and cycling to local facilities and to work
- III. Improving the image and perception of the City for residents, for visitors arriving in the City at the Railway Station and for potential investors
- IV. Optimising the use of land in an important City fringe location
- V. Advancing the regeneration and place making within the CUV regeneration area, including assisting the sustainability of the existing residential

neighbourhood and supporting the vitality of local shops, commercial units and existing community facilities / places of worship such as the local Castlefields Church

- VI. The use and collective ownership of public open space at Liversage Square is also enhanced through new neighbourhood expansion and development that aids natural surveillance
- VII. Helping support substantial existing investment (£8.0 million) in the new primary school and 39 place nursery currently under construction. Condition 8 of the Outline Planning Permission firstly requires a half form entry primary school to be completed upon the occupation of 224 dwellings; to be increased to a full form entry once 365 dwellings are completed (Condition 9). To maximise economies of scale and minimise future disruption to the operation of the school, the Council and its funding sponsors, Homes England and the D2N2 Local Enterprise Partnership, agreed to future-proof the capacity of the school by constructing the additional ½ form capacity within the fabric of the building. The relationship between the Scheme and the provision of the school is therefore symbiotic – the school and new housing will attract families to Castleward, the school enables continued education provision, the Scheme is necessary to deliver quality housing

7.5. Disbenefits of the Scheme - Loss of an established employment area

- 7.5.1. The Order Land currently comprises an established employment zone; comprising secondary and tertiary commercial accommodation for a range of activities as described in Section 3. In October 2019, there remained 27 businesses trading from the Order Land. Some of these were linked trade showroom businesses which equated to 21 business occupiers in the Order Land.
- 7.5.2. Based upon published SIC codes obtained from Companies House, there exists a predominance of retail and wholesale businesses within the area, including car repair operations, depot facilities to the public sector, supplies to the construction sector, small production and storage facilities.

7.5.3. The disbenefit of the Scheme, when the making of the Order was approved by the November 2019 Council Cabinet, was the displacement of the 21 existing business occupiers who had an estimated total of 215 employees, of which 179 were full time equivalent (FTE). Based on output level data derived from the 2011 Census, it was estimated that around 65% (140 employees) were residents within the City of Derby

7.5.4. In Section 5 of the Statement of Reasons (“SoR”) (CD 1.3), an assessment was given of the prospects of each business being successfully relocated, ranging between Very Good, Good and Challenging. This was based on feedback from the businesses about their requirements, local market intelligence and applying specified indicative criteria.

7.5.5. Table 6 below presents the proportion of businesses and FTE jobs it identified as falling within each category:

Table 6

Category	Very Good	Good	Medium	Challenging	Other*	Totals
No. of Businesses	7	5	1	7	1	21
No. of FTE jobs	19	36	72	52	0	179

* where relocation was identified as not applicable (NCP)

7.5.6 Table 7 reflects the updated position of businesses remaining in the Order Land against the prospects of relocation as assessed in October 2019 for the Statement of Reasons.

Table 7

Category	Very Good	Good	Challenging	Other*	Totals
No. of Businesses	6	4	6	1	17
No. of FTE jobs	11	32	48	0	91

* where relocation was identified as not applicable (NCP)

7.5.7 Cosy (72 FTE Employees), Willow Coffee (8 FTE Employees) and Derby Timber Supplies (4 FTE) have now relocated elsewhere voluntarily. Hawkins & Shepherd (4 FTE) have served a Blight Purchase Notice and indicated their intention to extinguish.

7.5.8 In addition, Bustler Market are moving to the unit vacated by Cosy on a temporary basis. They have 1 FT Employee.

7.5.9 Consequently, the actual number of businesses potentially impacted by the Scheme is 16, affecting 90 FTE jobs. This is approximately a 50% reduction from the potential loss of 179 FTE jobs referred to in the Council's Statement of Reasons.

7.5.10 As mentioned in Section 6 above, the Council has formed a dedicated relocations team. This is led by Mrs Balaghee from the Council's Regeneration and Major Projects Team to provide relocation assistance. Comprehensive details of this, including site and premises finding services, are contained within the proof of Ms Lister.

7.5.11 It is understood that the relocations team is currently providing active assistance to Derby Timber Supplies, Tarmac Trading Ltd, Derbyshire County Transport, Kitchen and Bathroom Warehouse and Moguntia Foods. Whilst the relocation of Tarmac and the County Council Depot are challenging, all of these should be capable of being accommodated within the City, which has the potential to reduce

the impact of the Scheme even further.

7.6 The balancing exercise

- 7.6.1 As detailed in the Council’s Statement of Case (SoC), the Scheme is a direct response to both national and local policy objectives to meet housing need. The Scheme will achieve a quantitative increase in the number of homes in Derby and help the City to maximise its economic, social and environmental potential by improving the quality of the City’s housing offer. To facilitate this, the assembly of the Order Land is required. Given the number of third-party interests in the Order Land, the only way that this can be achieved, within a reasonable timeframe, is through the exercise of compulsory purchase powers.
- 7.6.2 As detailed in the planning proof of Mr Pheasant, the Adopted DCLP1 (3.2), through policy CP10 allocates and safeguards some 199 hectares of employment land and additional non-specific regeneration sites that include employment uses. Castleward is not subject to this policy; rather Castleward is a specific housing-led, mixed-use regeneration allocation designated as an Area of Change in policy AC6. It is also a key housing site promoting the concept of a “Living City” in the CCM 2030. The democratic decision has therefore been taken by the Council and its stakeholders to replace low value, low density secondary and tertiary employment uses in Castleward with high quality housing and complementary commercial uses.
- 7.6.3 Furthermore, the likely disbenefit arising through the loss of employment uses has reduced substantially in the past 12-month period. Three businesses with 84 FTE jobs have or are relocating within Derby or the wider East Midlands region, whilst Hawkins and Shepherd with 4 FTE jobs are extinguishing their business by election. In employment terms this represents a near 50% reduction in potential job losses.
- 7.6.4 The Council has also established a dedicated multi-disciplinary relocation team to provide support for businesses wishing to relocate. It is anticipated that their work is likely to result in further businesses being relocated successfully.

7.6.5 In addition, all businesses who wish to understand the likely timescales for redevelopment have been provided with a not before date or anticipated development phasing proposals: the phasing of development and jointly agreed asset management strategy with Compendium has provided a degree of assurance that redevelopment will not displace businesses unnecessarily who can be kept in situ through the effective use of sale and leaseback arrangements. In turn, this provides additional time to secure effective relocations.

7.6.6 The Council is therefore satisfied that the Scheme will bring about significant quantitative and qualitative housing gain within the City, together with other benefits, and that these decisively outweigh the dis-benefit associated with a limited loss of employment. Consequently, there is a compelling case in the public interest for compulsory purchase powers to be sought to secure the delivery of the Scheme.

8 ABSENCE OF IMPEDIMENTS TO THE SCHEME

8.1 There is an extant Outline Planning Permission (CD 2.1) covering the majority of the CUV regeneration area. The Outline Planning Permission contains six outstanding conditions, which require the delivery of improvements to social and physical infrastructure as part of measures that are necessary to mitigate the impact of re-development. These are linked to housing commencements and /or completion trigger thresholds. None of them are considered to represent an impediment to delivery, as summarised below:

8.1.1 Condition 2 of the planning consent requires that all reserved matters applications for future phases of the development (including the Scheme for which the Order Land is required) be submitted within twenty years (by February 2033). As the first reserved matters application for the Scheme has now been determined, and as further detailed in section 10, there will be no difficulty in meeting this timescale

8.1.2 Condition 9 of the consent restricts the number of homes that can be occupied until a single form primary school has been completed. It will be necessary to complete and open the school before the Order Land can be fully developed. This project is progressing well. Cabinet approved the necessary budget and development programme in September 2019; and construction commenced on site in June 2020. The school is expected to open in September 2021

8.1.3 Condition 10 of the consent restricts the number of homes that can be occupied until a new community centre has been provided. An application to remove the condition was made on 7 December 2020, on the basis that the proposed Scheme area does not affect any community organisations outside this area

8.1.4 Condition 13 of the consent restricts the number of homes that can be occupied until a new pedestrian crossing and footbridge has been constructed to improve access from the CUV to Bass' Recreation Ground. An application to vary the condition was made on 7 December 2020, seeking to amend the trigger, given the changes in the market and delivery of housing since the permission was granted

- 8.1.5 Condition 14 of the consent restricts the number of homes that can be occupied until an enhancement of the Bass' recreation ground has taken place. An application to vary the condition was made on 7 December 2020, seeking to amend the trigger, given the changes in the market and delivery of housing since the permission was granted
- 8.1.6 Condition 36 of the consent restricts the number of homes that can be occupied until works have been completed to change the priority of the junction between Siddals Rd and Station Approach. Again, an application to vary the condition was made on 7 December 2020, seeking to amend the trigger, given the changes in the market and delivery of housing since the permission was granted
- 8.1.7 I understand from Mr Bullock that each of the above mentioned applications to vary or remove had been the subject of prior discussion with the Council as local planning authority, and that the Council has indicated that as a matter of principle they were likely to be favourably received. I will provide an update to the inquiry on their progress should one become available.
- 8.1.8 The various remaining conditions imposed by the Outline Planning Permission relate to standard planning matters such as environmental protection and traffic management. The Council has no reason to believe that these cannot be discharged at the appropriate stage of the development.
- 8.1.9 There are no other known impediments to the delivery of the Scheme once land assembly has been completed.

9.0 FUNDING FOR THE SCHEME

9.1 Costs of the Scheme – Anticipated Overall Capital Costs

9.1.1 Table 8 below details the profile of all capital costs the Council expects to incur through the exercise of compulsory purchase powers, including the costs of funding the Public Inquiry process and an allowance for site enabling works, such as demolition, following the acquisition of the Order Land.

Table 8 : Profile of capital costs

Overall Anticipated Costs	2019/20	2020/21	2021/22	2022/23 or later (up to 2027/28)	Total
	£'000s	£'000s	£'000s	£'000s	£'000s
Expenditure					
Land acquisition costs for the CPO Scheme					
• HIF land ¹ .		1,805	1,806	401	4,012
• non-HIF land		1,260	1,261	280	2,801
Total land acquisition costs for the Order Land		3,065	3,067	681	6,813
Council/Professional fees to process the CPO	131	150	207		488
Site enabling allowance				500	500
Acquisition cost total	131	3,216	3,273	1,181	7,801
10% acquisition contingency				681	681
CPO Order Land total	131	3,216	3,273	1,862	8,482

9.1.2 The total Land Acquisition costs reported for November 2019 Council Cabinet was £6.813 million, which includes the estimated capital acquisition cost as assessed in Summer 2019. The funding package was approved by November 2019 Council

¹ The HIF Land is described in the section that follows

Cabinet, allowing also for market adjustments and terms of compensation, and with contingencies as outlined in the CPO Indemnity Agreement “**CPOIA**”.

- 9.1.3 The estimated cost of acquiring the Order Land was determined by a comprehensive land referencing exercise followed by Royal Institution of Chartered Surveyor’s (RICS) approved Red Book valuation exercises completed by Thomas Lister Ltd on behalf of the Council in Summer 2019. It included estimates of the market value of the land, compensation payments, disturbance costs to be reimbursed, third party professional fees and stamp duty land tax (SDLT) in relation to all of the affected interests in the Order Land at that date.
- 9.1.4 The Council originally entered into a Housing Infrastructure Funding (HIF) contract with Homes England on 29 March 2019, which is detailed later in this Section. The HIF Agreement identifies a number of sites within the Order Land as well as a detached site owned by the Council fronting Traffic Street. The updated plan for the revised HiF grant agreement on 20 November 2019 shows the pink edged boundary of the Order Land and the HiF land in green (ACQ/5C/2). The Agreement requires that the Council delivers a minimum of 512 homes on the HiF land by 2030.
- 9.1.5 The “non-HiF land” by comparison includes the remainder of the Order Land and is shown edged blue on the plan. There are further contractual funding obligations between the City Council and Compendium in respect of this land (again detailed later in this section), consequently the total estimated cost of £6.813 million is therefore divided between the two categories, covered by separate funding streams.
- 9.1.6 The Council also anticipates the costs of processing the CPO including the Public Inquiry will be in the region of £488,000 and as mentioned above has estimated site enabling costs within the Order Land to be in the region of £500,000.

9.2 Scheme Costs - sources of funding

- 9.2.1 Derby City Centre was designated as a Housing Zone by Homes England in 2016. The purpose of a Housing Zone is to help to unlock brownfield land and provide viable sites for housing developments. This designation encompasses three key regeneration sites, including Castleward. The City Council received £213,616 of Housing Capacity Funding from Homes England to finance improved resources and baseline development studies in these key housing areas.
- 9.2.2 The subsequent launch of the Government's national Housing Infrastructure Fund (HiF) programme in 2017 enabled the Council to bid for significant additional finance via the HiF Marginal Viability programme. This has been designed to provide "gap" funding to schemes where development cost and /or market conditions render regeneration and development schemes unviable – as was the case with Castleward. Following a period of due diligence and contract negotiation, the Council entered into the HiF Agreement on 29th March 2019.
- 9.2.3 Following discussion with Homes England concerning funding of a new primary and nursery school (a key planning condition), a revised HiF agreement signed 20th November 2019 confirmed an increase in total funding providing monies for both the acquisition land for housing and for the new school.
- 9.2.4 To compensate for the diversion of HIF finance to fund the school, the Council has ring-fenced £1.5 million of Right to Buy (RtB) Receipts from the Housing Revenue Account to support the costs of the CPO within the HIF Land. RtB receipts require the direct creation of a social housing gain and could not themselves legally be used to fund the school.
- 9.2.5 As detailed in the Council's Statement of Case and in this section above, funding is also provided by Compendium to meet the anticipated costs of

acquisition of the non-HIF land. In addition, Compendium have agreed to pay an outstanding capital receipt owed from the development of the Phase 1 Land of £500,000 and will underwrite by way of a contingency 10% of the total anticipated acquisition costs. Payment of the capital receipt and the acquisition costs contributions including the contingency have been formalised through a CPOIA (27th February 2020) and Deed of Variation (“DoV”) (25th March 2020). These funding streams are presented for completeness and clarity as follows in Table 9 below:

Table 9: Funding streams

	2019/20	2020/21	2021/22	2022/23 or later (up to 2027/28)	Total
Funding	£'000s	£'000s	£'000s	£'000s	£'000s
Housing Infrastructure Fund	131	1955	914		3,000
Un ring-fenced HRA Right to Buy receipts		201	1,299		1,500
Capital receipt				500	500
Compendium contribution (non-HIF land)		1,060	1,060	681	2,801
Acquisition funding total	131	3,216	3,273	1,181	7,801
Compendium contribution for up to 10% contingency				681	681
Total Funding	131	3,216	3,273	1,862	8,482

9.2.6 The Council is committed to funding the costs of a successful CPO proposal and will underwrite any additional costs that may arise from settlement of the compensation and disturbance claims arising from the acquisition of the Order Land, as per ACQ/5C/3.

10.0 PROPOSALS FOR DELIVERY

10.1 Delivery route – Overview

10.1.1 As already detailed in my proof of evidence, the CUV regeneration area has already seen partial transformation through the completion of two very successful development phases. Mr Bullock’s proof describes the place making role of Compendium and the development delivered to date in greater detail; including the extent of transformational change they have brought about that is ultimately supported by their corporate funding arrangements. These phases together with the delivery of the primary school and nursery are summarised below for completeness. I consider that they provide clear evidence of Compendium’s ability to deliver the quality development required.

10.1.2 This section goes on to summarise the contractual and functional working arrangements that are in place with Compendium, which in turn supports the confidence both the Council and CUV co-sponsor Homes England has in the existing “**CUV partnership**” arrangement to secure further delivery of the Scheme.

10.2 Delivery to Date

I. Phase 1

- Phase 1 flanks Carrington Street and comprises 164 two, three and four bedroom dwellings, 40 of which are affordable, 12 retail/commercial units, Castleward Boulevard running parallel; and Liversage Square with play-equipped public open space and functional public art.

II. Phase 2a

- Phase 2a off Carrington Street fronting Liversage Square is now complete and provides 54 dwellings, including 12 affordable apartments within a mix of two bedroom apartments, two bedroom duplex apartments and three bedroom town houses.

III. Primary School and Nursery School

- A one and a half form entry primary school and 39 place nursery commenced construction in June 2020 on the former Sovereign Council car park off Carrington Street, with practical completion due in August 2021. A preferred Multi-Academy Trust operator for the school has been selected and the facility is expected to open in September 2021.

10.3 Delivery Arrangements

10.4 Contractual Development Obligations

10.4.1 In accordance with the provisions of the **“Development Agreement”** described below, the Council and Homes England as sponsors for the CUV Regeneration Programme will utilise compulsory purchase powers to assemble land for the appointed development partner, Compendium, that is of sufficient scale to facilitate comprehensive development, ideally of 100 units or more on each site or phase.

10.4.2 The Development Agreement contains specific provisions that enable Compendium to call upon the sponsors, in this case being the Council, to utilise its statutory powers to assemble land for further phases. The Development Agreement also ring-fences nominated sites in the ownership of the sponsors and provides Compendium with a right of pre-emption to develop these assets in a phased approach, providing a number of criteria and tests are met including viability / market value, affordable housing provision, planning permission, proof of good and marketable title and delivery programme.

10.4.3 Where CPO powers are called upon, the Development Agreement provides for the acquiring authority to be indemnified by Compendium for the full costs of the CPO including all fees, process costs, compensation and disturbance payments, etc.

10.4.4 The DA requires the parties to formalise these provisions and enter into a specific CPOIA. This was executed on 27 February 2020 together with a DoV executed on 25 March 2020 varying the original terms of the Development Agreement whereby the indemnity and reimbursement costs are now shared between the

parties in accordance with the anticipated costs and funding arrangements detailed previously in Section 9.

10.4.5 Furthermore, the DoV makes provision for land to be acquired through the exercise of a successful CPO and subsequently transferred to Compendium, for development in later phases (the non-HIF land). If it appears evident that development is unlikely to come forward within 10 years from the exercise of compulsory powers, then the Council reserves the right to buy-back land at the then market value so that it may be developed outside of the Development Agreement. This is a precautionary mechanism only given the requirement that land acquired compulsorily for housing be developed within 10 years.

10.4.6 In addition, the Council and Compendium have agreed an Asset Management Strategy for the Order Land that through the use of leaseback or licenses aims to retain trading businesses that wish to continue in situ on an interim basis until properties are required for redevelopment. This is described further in Mr Bullock's evidence.

10.5 Future Proposals

10.5.1 As referred to in Mr Bullock's proof, Compendium have already worked with the Council, having been appointed in 2011 to deliver the requirements of the DCLP1 in the CUV regeneration area. Following a hybrid planning application in May 2012, the Outline Planning Permission was granted in 2013 for a 12-hectare brownfield regeneration site with a full consent for the now-delivered Phase 1 development that created 164 new homes, 12 retail units, a boulevard and public open square by 2016. Phase 2a has since created 54 new homes in 2020.

10.5.2 Reserved Matters approval has now been obtained for Phase 3a, comprising 82 new homes fronting John Street and New Street, on land now owned and controlled by the CUV partnership. Development is expected to commence by Compendium through site clearance and enabling works in January 2021.

10.5.3 Phase 2b is consented for 258 dwellings and is being brought forward by “Liversage Street (Derby) Limited and John Street (Derby) Limited”, outside the framework of the Outline Planning Permission. Construction is anticipated to commence Summer 2021. These latter two phases are referenced in the table below.

10.6 Timetable for delivery

10.6.1 The timetable for delivery is detailed in the Proof of Mr Bullock and repeated here for completeness:

Phase	Pipeline units	Start	Completion
2b	258	Jun-21	Dec-23
3a	82	Apr-21	Dec-22
3b	Tbc	Mar-22	Apr-23
3c	Tbc	Mar-23	Jun-24
4a	Tbc	Mar-24	May-25
4b	Tbc	Mar-25	Sep-25
4c	Tbc	Mar-26	May-27
5	Tbc	Mar-27	Jul-27

10.7 Summary

10.7.1 The Council is confident that Compendium, as the appointed development partner for the CUV regeneration area are well placed as part of the CUV partnership to deliver the relevant future development phases within the Order Land. In the unlikely event that they do not deliver on their obligations, the Council has the power to buy back land to facilitate its delivery within the next ten years.

10.7.2 In addition Liversage Street (Derby) Limited and John Street (Derby) Limited are expected to obtain planning consent in 2021. It has been agreed with them that in the event that they do not develop their proposal within a defined time period,

the Council has the right to compulsorily acquire their interests.

11.0 HUMAN RIGHTS AND EQUALITIES

11.1 Human Rights

11.1.1 In exercise of its CPO powers the Council has fully complied with its obligations pursuant to the Human Rights Act 1998 and the European Convention on Human Rights (**“the Convention”**).

11.1.2 In discharging its duties under the Convention, the Council must consider whether, on balance, the case for compulsory purchase justifies interfering with the human rights of the owners and occupiers of the Order Land. The Council must also be satisfied that the land included in the Order is necessary in order to secure the delivery of the Scheme and does not include land which is not required for that purpose.

11.1.3 Article 1 of the First Protocol to the Convention (CD 5.3) states that *“...Every natural or legal person is entitled to peaceful enjoyment of his possessions”* and *“no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law...”*. Whilst occupiers and owners in the Order Land will be deprived of their property if the Order is confirmed and the powers are exercised, this will be carried out in accordance with the law, in this case the Acquisition of Land Act 1981. The Order is being pursued in the public interest as required by Article 1 of the First Protocol. The public benefits associated with the Scheme are set out earlier in this proof. The Council considers that the Order will strike a fair balance between the public interest in the implementation of the proposals and those private rights which will be affected by the Order.

11.1.4 Article 6 of the Convention provides that: *“In determining his civil rights and obligations...everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”*. The regeneration proposals, including those associated with the Order Land, have been extensively publicised and consultation has taken place with the

communities and parties that may be affected by the Order. All those affected by the Order were notified and had the right to make representations and/or objections to the Secretary of State, and objecting parties are being heard at public inquiry. I am advised that it has been held that the statutory processes are compliant with Article 6 of the Convention.

11.1.5 Article 8 of the Convention states that: *“Everyone has the right to respect for his private and family life, his home and his correspondence...interference is justified however, if it is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for its prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others.”* The Council considers that any interference with this right that would result from the exercise of the powers conferred by the Order will be in accordance with the law, give effect to a legitimate aim (namely securing a quantitative increase in housing, and a qualitative improvement in the housing available in Derby), and will be proportionate having regard to the public benefits to be secured.

11.1.6 Those whose interests are acquired under the Order will also be entitled to compensation which will be payable in accordance with the compulsory purchase Compensation Code, assessed on the basis of the market value of the property interest acquired, disturbance (e.g. reasonable moving costs and costs/losses directly related to the compulsory acquisition) and statutory loss payments. The reasonable surveying and legal fees incurred by those affected in transferring interests to the Council will also be paid by the Council. I am advised that the Compensation Code has been held to be compliant with Article 8 and Article 1 of the First Protocol to the Convention.

11.1.7 The European Court of Human Rights has recognised in the context of Article 1 of the First Protocol that *“regard must be had to the fair balance that has to be struck between the competing interests of the individual and the community as a whole”*. Both public and private interests are to be taken into account in the exercise of

the Council's powers and duties. Similarly, any interference with Article 8 rights must be "*necessary in a democratic society*" i.e. proportionate.

11.1.8 In promoting this Order, the Council has carefully considered the balance to be struck between the effect of acquisition on individual rights and the wider public interest in the redevelopment of the Order Land. Interference with Convention Rights is considered by the Council to be justified here in order to secure the economic regeneration, environmental and public benefits which the proposals will bring.

11.1.9 The requirements of the Human Rights Act 1998 and the Convention, particularly the rights of property owners, have therefore been fully considered. There is a compelling case in the public interest for the Order to be made and confirmed, and the interference with the private rights of those affected that would be the inevitable result of the exercise of the compulsory powers conferred by the Order would be lawful, justified and proportionate.

Equality and Diversity

11.2 In line with the Equality Act 2010 the Council has undertaken an Equalities Impact Assessment, ("**EQIA**") (CD 4.3) as part of its decision-making exercise, considering the impacts of the proposals on those affected, identifying whether there may be any impact on a protected group of individuals, establishing whether there are negative impacts and how these could be mitigated.

11.3 The compulsory purchase of commercial land affecting businesses is recognised in the EQIA of having a negative impact for equality groups, although to date there is no evidence from the businesses already relocated that there have been any job losses. Support from the Council has been provided to the business owners, which has included advice on relocation options, grant assistance and employment advice through the Derby Employer Hub should any staff be confirmed by the affected businesses as at risk.

11.4 The main protected characteristics of business owners and their workforce in Castleward in terms of sex are mainly male. Therefore, it is possible to say that the dis-benefit of the proposals mainly affects men.

11.5 The compulsory purchase process for business owners is highly regulated and prescriptive to ensure a fair outcome for them in terms of compensation. The Council is satisfied, therefore, that neither direct nor indirect discrimination on the grounds of any protected characteristic will result from the proposals.

11.6 The EQIA also identified the positive benefits the development of the Order Land would have on the Council's area as a whole in the form of much needed housing. These development opportunities will address the following Public Sector Equality Duty aims:

- elimination of discrimination – the new homes will include affordable provision, and will be highly accessible by public transport and close to some of Derby's most diverse areas, in terms of ethnicity and nationality. It is anticipated that the demographic profile of those benefiting from the new homes will reflect the diverse population of the Council's area covering all protected characteristics
- promotion of equality of opportunity – the housing and employment opportunities which will expand opportunities and outcomes available locally
- fostering good relations between different groups of people – by providing a pleasant and pedestrian friendly residential neighbourhood, with little dependence on the private car, a new primary and nursery school and small retail stores
- people from all backgrounds will be encouraged to use the public realm spaces, providing more opportunities to mix and participate together in community life

11.7 The annual update of the EQIA, published on the Council's website on 30 November 2020 concludes that there are potential negative impacts of the CPO across different equality groups. Of the businesses that have already relocated, they have not suffered job losses. The Council is providing information on government grant assistance and dedicated support to identify suitable relocation sites. In addition, the Derby Employer Hub is

available for jobs advice. The Council is satisfied that there is sufficient mitigation in place for affected persons across all equalities groups and that the Scheme overall is consistent with its Public Sector Equality Duty.

12 OUTSTANDING OBJECTIONS

12.1 Summary of Objections

12.1.1 Table 10 below details the outstanding objectors, summarises their objection and highlights which proof of evidence addresses the objection.

Table 10

Objector	Summary of Objection	Proof responsible for addressing the objection (relevant section in brackets)
<p>Tarmac Trading Ltd</p> <p>(OBJ/1)</p>	<p>The objection is made on four grounds:</p> <p>(1) The absence of a compelling case in the public interest and failure to comply with the ECHR (European Convention on Human Rights).</p> <p>(2) Failure to fully grasp the operations and requirements of the ready mixed concrete plant;</p> <p>(3) Failure to consider Planning Policy Guidance on safeguarding existing sites contrary to the advice in National Planning Policy Framework (February 2019) (“NPPF”); and</p> <p>(4) Prematurity</p>	<p>(1) Compelling Case (Section 12.3)</p> <p>(2) Negotiations (Section 8)</p> <p>(3) Planning (Section 6)</p> <p>(4) Compelling Case (Section 12.3)</p>

<p>Midcastle Ltd (OBJ/2)</p>	<p>Their current site is central to the City of Derby from which they have operated for approximately 40 years and having to relocate would mean a loss to the local community. The current site has a prominent shop frontage and good public accessibility - an enforced move would affect trade. The current site, because of its accessibility, is easy for staff to get to by public transport. The relocation of the premises elsewhere would be disruptive as during any transition period it would mean operating from two sites at the same time meaning that staff would be split between the two. Any relocation is likely to cause a reduction in employment from the current complement of 37 staff.</p>	<p>(1) Impact of relocation upon the business: Negotiations (Section 8)</p> <p>(2) Impact on employment / risk of redundancies: Negotiations (Section 8) & Compelling Case (Section 12.4)</p> <p>(3) Loss of facility to the community: Compelling Case (Section 12.4)</p>
<p>Anthony Stuart Ross and Derby Auto Electrical Services Ltd (OBJ/3)</p>	<p>The objection is made on 3 grounds:</p> <p>(1) The acquiring authority has made no meaningful attempts to acquire land by agreement.</p> <p>(2) The acquiring authority have not provided any assurances on minimal level of compensation for Anthony Stuart Ross or Derby Auto Electrical or provided 'a not before date'.</p>	<p>(1) Negotiations (Section 8)</p> <p>(2) Negotiations (Section 8)</p>

	(3) Lack of appropriate engagement and excessive delays in submitting the draft order have created uncertainty over a 15 year period.	(3) Compelling Case (Section 12.6)
Liversage Street (Derby) Limited and John Street (Derby) Limited (OBJ/4)	<p>The objection is made on four grounds:</p> <p>(1) The Council has failed to demonstrate that the confirmation of the CPO would deliver a quantitative and/or qualitative housing gain in respect of either plots 22 or 37;</p> <p>(2) The Council has failed to consider an alternative scheme;</p> <p>(3) The Order proposes the acquisition of more land than is necessary for the delivery of the CUV Scheme; and</p> <p>(4) The Council have made inadequate efforts to reach negotiations for the acquisition of the First Land (as defined in their letter of objection, plot 22 of the Order Land) outside of the CPO process.</p>	<p>(1) Housing Needs (Section 6)</p> <p>(2) Compelling Case (Section 12.5)</p> <p>(3) Compelling Case (Section 12.5)</p> <p>(4) Negotiations (Section 8)</p>
Frederick Charles William Hawkins, Jane	<p>The objection is made on 3 grounds:</p> <p>(1) The acquiring authority has made no meaningful attempt to acquire land by agreement.</p>	(1) Negotiations (Section 8)

Christine Hawkins, Hawkins and Shepherd Ltd (OBJ/5)	(2) The acquiring authority have not provided any assurances on minimal level of compensation for Hawkins and Shepherd Ltd or provided 'a not before date'. (3) Lack of appropriate engagement and excessive delays in submitting the draft order have created uncertainty and as a result have prejudiced the success of Hawkins and Shepherd Ltd.	(2) Negotiations (Section 8) (3) Compelling Case (12.7)
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12.2 Response to Objections

12.2.1 The section below deals with the following grounds for objection:

12.3 Tarmac Trading Ltd: (OBJ/1)

- I. Ground (1): The absence of a compelling case in the public interest and failure to comply with the ECHR (European Convention on Human Rights).

12.3.1 The Council has set out its compelling case for promoting the Order in the preceding sections of this proof, with further detail being found in the proofs of Mr. Gillie and Mr. Pheasant in particular. In summary, the Scheme accords with national and local housing policy objectives by delivering a quantitative housing gain whilst improving the quality and increasing the range and types of dwellings on offer, alongside other benefits.

12.3.2 Although it is recognised that the existing businesses within the Order Land will be displaced, the Council has taken steps to assist businesses with relocation support as detailed in the Negotiations Proof of Ms Lister and as summarised in Section 6 of this proof of evidence, including in respect of the objector's concrete batching and aggregate operations. Several businesses, such as Willow Coffee and Derby Timber

Suppliers have successfully relocated during the CPO process to alternative accommodation within the City of Derby; or as in the case of Cosy, are relocating to other nearby locations whilst retaining their existing workforce. Indeed, we understand Cosy have expanded their operations and are in the process of recruiting a further 20 staff members.

12.3.3 Furthermore, all businesses that have requested a Not Before Date have been provided with the same and during negotiations, through the grant of new leases or undertakings not to execute a GVD prior to that date. Reasonable adjustments have been made to the terms of their future occupation of land and premises in order to retain businesses in-situ during the transition period to new premises, where appropriate. As such, job losses are being reduced to a minimum. However, where businesses cannot be relocated, appropriate compensation will be payable in accordance with the compensation code.

12.3.4 Overall, the Council considers that the very significant benefits of the qualitative and quantitative housing gain promoted by the Scheme outweigh the disbenefits of the limited loss of employment uses and that it has proven a compelling case that is in the public interest.

12.3.5 I am advised that the Council's decision and the statutory processes involved in the confirmation process comply with all relevant human rights obligations, as described in section 11 above.

II. Ground (4): Prematurity

12.3.6 As set out in greater detail in section 4 of Mr Pheasant's witness statement, the Eastern Fringes Area Action Plan (CD 3.7) first proposed the Eastern Fringes including Castleward as an expansion of the City Centre towards the Railway Station in 2008. The emerging Local Plan (2011-2028) (DCLP1) and later the version adopted in 2017 confirmed the Council's intention for Castleward and the former DRI site, as an area of change, as per policy AC6. The regeneration of the now CUV

(as well as the nearby DRI site) are also at the heart of the Living City ambitions of the CCM 2030.

12.3.7 Outline Planning Permission (CD 2.1) together with full planning for Phase 1 of the CUV was granted in 2013, with development commencing shortly thereafter. Phase 1 was completed in 2016. Phase 2a was completed in November 2020. Planning permission for Phase 2b is expected to gain consent in 2021 subject to entry into Section 106 Agreement and Phase 3a also has reserved matters consent granted in October 2020. Development phases have responded to the availability of land and planning consent over the past seven years. Further development beyond these phases is highly unlikely due to fragmented land ownership and in turn highly limited opportunity to bring forward a coherent set of design principles.

12.3.8 The CUV is therefore not premature; it is at an advanced stage of delivery and at risk of stalling without the Order.

12.4 Midcastle Ltd: (OBJ/2)

- I. Ground (2): Impact on employment – risk of redundancies

- II. Ground (3): Loss of facility to the community

12.4.1 The proof of Ms Lister comments on Ground (2) in more detail and I have summarised the Council's response here to Grounds (2) and (3) in the same context, as the Council considers the mitigation measures that are available apply to both grounds.

12.4.2 The objector's grounds for objecting to the Order focus largely on business impacts and issues that relate to relocation and its direct economic cost and the indirect economic consequences, including loss of a facility to the community. It is unclear if the objector's concerns are considered temporary or permanent as no further

information or evidence is available. In particular it is not clear as to why staff reductions would be necessary and no explanation as to the number and whether these would be full or part-time posts has been provided.

12.4.3 Nonetheless, these matters can be addressed by way of identification of a suitable site for relocation and payment of associated compensation. The Council appreciates that due to the Covid -19 pandemic the business proprietor has been shielding, and that contact or dialogue until recently has been very difficult and not a priority for the objector. The objector has, however, now engaged with the Council concerning negotiations for compensation and the objector's agent is in dialogue with Thomas Lister Ltd. The Council remains committed through the efforts of the Relocations Team to assist with the search for suitable alternative accommodation.

12.4.4 Ultimately should this not prove possible (though there is no reason to think it will not be), the impact on the individual business is acknowledged but considered to be outweighed as described above.

12.5 Anthony Ross / Derby Auto Electrical Services Ltd: (OBJ/3)

- I. Ground (3): Lack of appropriate engagement and excessive delays in submitting the draft order have created uncertainty over a 15-year period.

12.5.1 As detailed in the Council's Statement of Case (CD 1.5), it is true that proposals for the regeneration of Castleward have been planned for around fifteen years. A vision for the regeneration of Castleward took a number of years to develop. Procurement of a development partner including the legal framework (Development Agreement) and Cabinet approval post the 2008/2009 financial crash via an OJEU (Official Journal of European Union) compliant Competitive Dialogue process also took several years. Outline Planning Permission was granted in 2013, enabling the regeneration process to commence. Following this milestone, Phase 1 was

completed in 2016 and Phase 2 completed November 2020. The delay between these phases was due to lack of suitable sites to complete the land assembly and the need to bring forward social infrastructure in the form of the new primary and nursery school.

12.5.2 As detailed throughout my proof of evidence, the CUV partnership does possess further land in its ownership within the Order Land, however these sites are fragmented and of limited scale to bring forward further development phases.

12.5.3 Following a successful bid to Homes England, HiF, grant funding was confirmed to the Council in 2019. The availability of new funding has allowed the Council to seek to acquire further parcels of land both by agreement and potentially compulsorily to allow further phases to maximise the outputs of the Scheme. The Council has therefore progressed its proposals as promptly as circumstances have allowed.

12.5.4 Furthermore, all of the Council's actions and decisions including the consultation exercises undertaken during the CPO process as detailed in Ms Lister's Negotiating Proof have been publicised in accordance with its policies and procedures, including Council Cabinet approvals; all development proposals undertaken by the CUV partnership have been subject to public consultation through both the planning process and wider public relations exercises (as detailed in the Statement of Case).

12.5.5 Negotiations are ongoing with Carter Jonas, Mr Ross's representative in seeking to reach agreement to enable the objection to be withdrawn. A meeting was held to discuss this agreement on 16th November, following which revised Heads of Terms were issued to Carter Jonas which were not accepted. Carter Jonas issued revised terms for the Mitigation Agreement on the 9th December, which following review by the Council have been rejected on the grounds that the terms proposed are not acceptable. Carter Jonas were advised of this position on the 17th December and a response is awaited. Carter Jonas had stated that if the Mitigation Agreement is not in place, a Blight Notice will be served on the Council by DAES as owner occupier of one property and tenant of the other property. Further details are provided in

Ms Lister's Negotiating Proof.

12.5.6 Consequently, the Council does not accept that there has been a lack of appropriate engagement nor excessive delays in submitting the draft order.

12.6 Liversage Street (Derby) Ltd and John Street (Derby) Ltd: (OBJ/4B)

1. Ground (2): The Council has failed to consider an alternative scheme [i.e. their scheme].

12.6.1 The Council accepts that the objector's proposals are aligned with the objectives of the Scheme, which are to develop the objector's land for housing.

12.6.2 The land now controlled by John Street Derby Ltd and owned by Homes England was previously ring-fenced for development by Compendium. On the basis Liversage Street Derby Ltd had previously acquired the adjacent car park site from Alcora and had submitted an outline planning application for both sites, the Council had confidence that the parent company, Elevate Developments Ltd, would bring both sites forward in a timely manner and that comprehensive development would be achieved. Agreement was therefore subsequently obtained within the CUV partnership to release the land and a DoV was executed 16 June 2020 that removed the site from the provisions of the Development Agreement.

12.6.3 Full planning applications were submitted by the objector in 2020 for the sites related to Liversage Street (Derby) Ltd and John Street (Derby) Ltd, of which both are being considered for determination. However, to date, no development has commenced.

12.6.4 The Council is seeking certainty that the proposals will be delivered. Consequently, the Council requires either a contractual means of ensuring that housing development is actually brought forward by the objector or, in the event that it fails to do so for any reason, that compulsory purchase powers are available instead. For this reason, the Council and the objector have since agreed the terms of an undertaking by the Council that it will not utilise CPO powers, if conferred, providing

that the land in question is brought forward for substantial development within two years of the date a CPO is confirmed. As the legal agreement has yet to be executed, the objection formally remains, however it is hoped that this will be completed shortly and the objection withdrawn.

- II. Ground (3): The Order proposes the acquisition of more land than is necessary for the delivery of the CUV Scheme.

12.6.5 As detailed in the Council's Statement of Case and as indicated above, the main purpose for seeking confirmation of the Order in respect of the objector's land is to guarantee delivery of housing development on a key site within the Order Land. The site is necessary for the delivery of housing. If the objector's scheme is not delivered, and the land were not available to the Council instead, both the quantitative and qualitative gain achieved by the Scheme would be materially compromised and as such, it remains necessary for inclusion within the Order.

12.7 Frederick Charles William Hawkins, Jane Christine Hawkins, Hawkins and Shepherd Ltd: (OBJ/5)

- I. Ground (3): Lack of appropriate engagement and excessive delays in submitting the draft order have created uncertainty and as a result have prejudiced the success of Hawkins and Shepherd Ltd.

12.7.1 The nature of this objection is materially the same as Ground (3) in the objection from Anthony Ross / Derby Auto Electrical Services Ltd. The Council has undertaken a clear and transparent process in relation to the regeneration of the CUV to date; and physical development commenced in 2014. The CPO consultation process has been equally clear and transparent, and it is noted that the objector attended a public question and answer event in October 2019. Negotiations are also ongoing for the compensation payment arising from the subsequent service and acceptance of a Blight Notice and accepted and deemed notice to treat is therefore already in place. Claim for compensation is anticipated to be submitted within the next few weeks. On 4 December 2020 Carter Jonas received instruction from Mr Hawkins to

withdraw their objection to the CPO, which is now pending confirmation.

12.7.2 Consequently, the Council does not accept that there has been a lack of appropriate engagement nor excessive delays in submitting the draft Order.

13. CONCLUSIONS

13.1 The evidence marshalled in this proof demonstrates that there is a compelling case in the public interest for the use of CPO powers to acquire the Order Land.

13.2 The Council as the acquiring authority has satisfactorily demonstrated the need for additional housing in Castleward and that both a quantitative and a qualitative housing gain will be achieved through the Scheme, thereby satisfying the test set out in Section 17 of the Housing Act 1985.

13.3 Furthermore, the Council in arriving at its conclusion has considered whether the dis-benefits of the Scheme, namely the potential for loss of employment facilities in the CUV, outweigh the positive housing and other benefits that the Scheme will bring about, but has concluded that they do not.

13.4 In particular, the Council has made all reasonable efforts through negotiations for the acquisition of affected interests and the offer of relocation assistance to affected businesses to mitigate the potential dis-benefit. The benefits of the CPO decisively outweigh the limited potential disadvantage that exists.

13.5 Without the Order, given the fragmented nature of the land ownerships, it is unlikely that the necessary land interests could be assembled to bring about the quantitative and qualitative housing gain, and transformational change proposed by the Scheme.

13.6 The Council has discharged its obligations in respect of human rights and equalities legislation.

13.7 Finally, the proof addresses elements of the five outstanding objections to the Order, who have yet not confirmed their withdrawal, so far as they relate to matters within my subject area. The outstanding objectors are Tarmac; Midcastle; DAES; Liversage Street (Derby) Ltd and John Street (Derby) Ltd; and Hawkins & Shepherd. I conclude that none of those outstanding objections is made out.

14. DECLARATION AND STATEMENT OF TRUTH

I confirm that the facts stated within my evidence are true.

John Gilman

Principal Regeneration Manager

Derby City Council

4 January 2021

THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020

APPENDIX 1

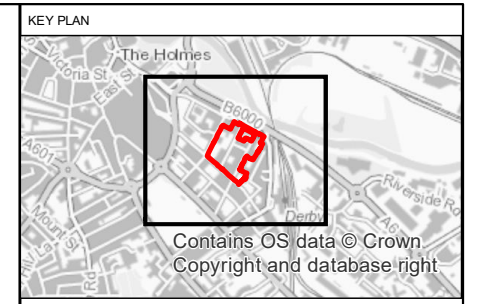
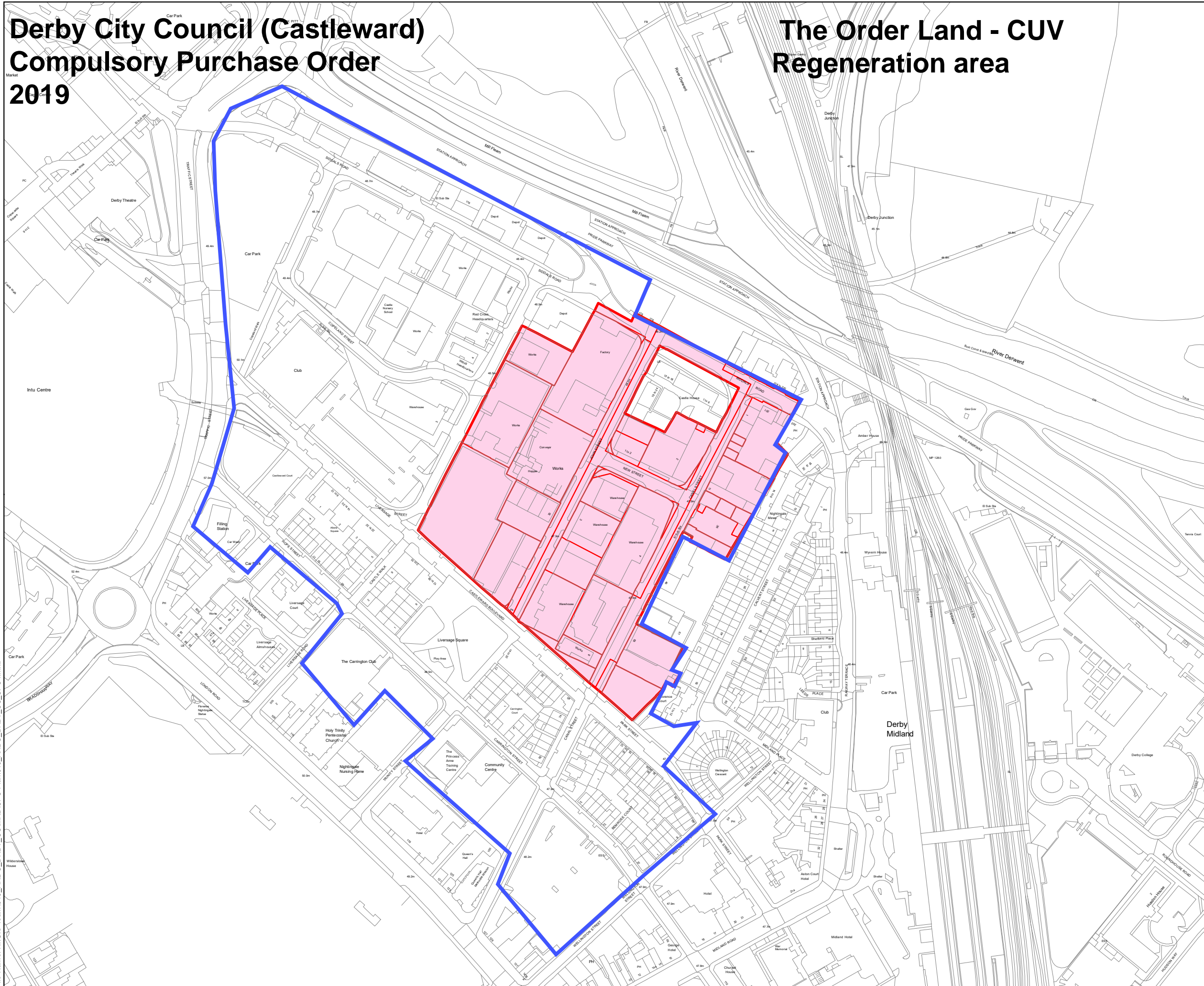
STATEMENT OF EVIDENCE OF MR. JOHN GILMAN

ON BEHALF OF DERBY CITY COUNCIL

PUBLIC INQUIRY 26 – 29 January 2021

Derby City Council (Castleward) Compulsory Purchase Order 2019

The Order Land - CUV Regeneration area



Key

- Order Land
- Parcels
- Castleward Urban Village regeneration area

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Client

Derby City Council

Designer

ardent
infrastructure and regeneration

Project
CASTLEWARD SCHEME

Drawing Title
CPO 1

Status	DRAFT	Revision	003
Date	16/09/2019		
Scale	1:2,500 @ A3	Spatial Reference System	British National Grid
Drawn By	I.MAXIM	Checked By	A.KING
Approved By			P.MILLS
Drawing reference	019_ARDG_DRBY_CC_CPO4		

This document is not to be used in whole or in part other than for the project for which it was prepared and provided.

Plot Date: 16 September 2019 16:48:26
File Name: N:\GIS Team\019_ARDG_DRBY_CCMXDCPO Plan\019_ARDG_DRBY_CC_CPO4.mxd

THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020

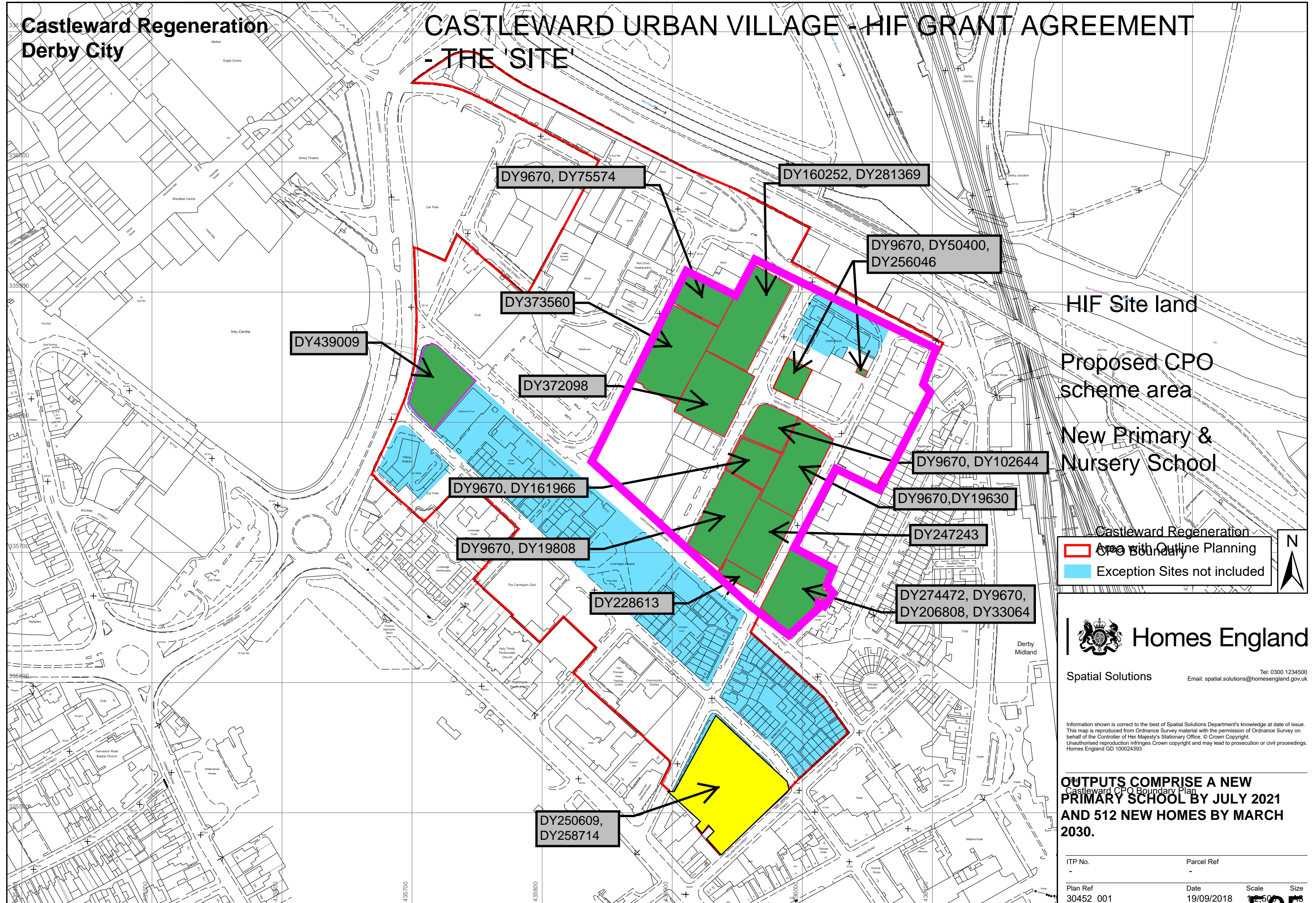
APPENDIX 2

STATEMENT OF EVIDENCE OF MR. JOHN GILMAN

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PUBLIC INQUIRY 26 – 29 January 2021

**CASTLEWARD URBAN VILLAGE - HIF GRANT AGREEMENT
- THE 'SITE'**



HIF Site land

Proposed CPO
scheme area

New Primary &
Nursery School

Castleward Regeneration
Area with Outline Planning
Exception Sites not included



Spatial Solutions Tel: 0300 1234500
Email: spatial.solutions@homesengland.gov.uk

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**OUTPUTS COMPRISE A NEW
PRIMARY SCHOOL BY JULY 2021
AND 512 NEW HOMES BY MARCH
2030.**

ITP No.	Parcel Ref		
-	-		
Plan Ref	Date	Scale	Size
30452_001	19/09/2018	1:250	595

THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020

APPENDIX 3

STATEMENT OF EVIDENCE OF MR. JOHN GILMAN

ON BEHALF OF DERBY CITY COUNCIL

PUBLIC INQUIRY 26 – 29 January 2021



Derby City Council

FAO: Mr Philip Ware
Inspector

Team Corporate Resources
Contact Simon Riley
Our ref Castleward CPO
Email simon.riley@derby.gov.uk
Tel 01332 643181
Minicom 01332 640666
Date 22 December 2020

Dear Mr Ware

Castleward Compulsory Purchase Order

As per Council Cabinet's decision of 13 November 2019, which authorised the Castleward Compulsory Purchase Order, the Council acknowledges additional expenditure that might arise. By making this decision, the Council is prepared to underwrite these costs.

Yours sincerely

A handwritten signature in black ink that reads "S C Riley".

Simon Riley
Strategic Director of Corporate Resources
And S151 Officer

Corporate Resources, the Council House, Corporation Street, Derby DE1 2FS
derby.gov.uk

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