

THE HOUSING ACT 1985
THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
AND

THE ACQUISITION OF LAND ACT 1981

THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020

STATEMENT OF CASE

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1 INTRODUCTION

- 1.1 This document is the Statement of Case of Derby City Council (“**the Council**”) prepared in connection with the making of a compulsory purchase order entitled the Derby City Council (Castleward) Compulsory Purchase Order 2020 (“**the Order**”), which is submitted to the Secretary of State for Housing, Communities and Local Government (“**the Secretary of State**”) for confirmation. The Council is the acquiring authority for the purposes of the Order.
- 1.2 The Council has made the Order pursuant to powers contained in section 17 of the Housing Act 1985 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976. These powers are explained later in this Statement of Case. In this document the land and rights included within the Order and the subject of proposed acquisition are referred to as “**the Order Land**”. The Council is the local planning authority and the local highway authority for the Order Land.
- 1.3 The Order has been made to facilitate the acquisition of land for the provision of housing accommodation (“**the Scheme**”). The Scheme will enable further phases of the Castleward Urban Village (“**CUV**”) Regeneration Scheme, an attractive and high quality residential-led development, in a key gateway location close to Derby City Centre (“**the City Centre**”). The wider CUV comprises affordable and market housing; improvements to the physical environment; public realm improvements including the provision of new public open space; a new school and community provision; and significant office and commercial development.
- 1.4 The wider CUV has the benefit of a housing allocation of a minimum 800 homes in the adopted Derby City Local Plan 2011-28 Part 1 (Policy AC6 (Castleward and the former Derbyshire Royal Infirmary)). Development of the wider CUV has been underway since 2014, and a first phase of 164 dwellings has been completed. A second phase of 54 dwellings is due for completion in October 2020. Neither of these phases required the exercise by the Council of its compulsory purchase powers. The Local Plan specifically envisages the use of compulsory purchase powers to deliver the wider CUV if required.
- 1.5 The Order is necessary to ensure land assembly for the proposed residential development, to provide at least 512 new dwellings (exact number subject to detailed design). The area of the Order Land to be acquired is approximately 4 hectares. New rights as necessary to enable redevelopment are sought over the entire area.
- 1.6 The Scheme has the benefit of outline planning permission for residential-led development, granted on 8 February 2013, Planning Application Reference 05/12/00563. A detailed description of the Scheme proposals is found at Section 4 of this Statement of Case.
- 1.7 This Statement of Case has been prepared in compliance with the Government “*Guidance on compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under threat of, compulsion*” (July 2019) (“**the Guidance**”).

2 DESCRIPTION OF THE ORDER LAND

- 2.1 The Order Land comprises approximately 43 plots over 4 hectares and is bounded by Siddals Road, Castleward Boulevard and Liversage Street and includes Canal Street (east and west sides). The site is intersected by public vehicular highways, with John Street running from south to north, and New Street joining John Street to Canal Street, running from west to east. The plan at Appendix A shows the Order Land (edged red) in the context of the CUV as a whole.
- 2.2 As well as acquiring land, new rights are sought for the purposes of carrying out the development comprising the Scheme, namely rights to over-sail land with loaded or unloaded cranes.

3 ENABLING POWERS AND PURPOSE OF THE ORDER

- 3.1 The Council is empowered by section 17 of the Housing Act 1985 to acquire land, houses or other properties by compulsion for the provision of housing accommodation. A requirement of the exercise of the power is that the acquisition must achieve a quantitative or qualitative housing gain.
- 3.2 Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 enables the Council to compulsorily acquire any such new rights over the land as are specified in a compulsory purchase order.
- 3.3 The Government has prepared the Guidance. The Council has had regard to and followed the Guidance where appropriate in relation to the Order.
- 3.4 The Council's purpose in seeking to acquire the Order Land is to enable the construction, through its delivery partner, Compendium Living, a minimum of 512 new dwellings (the precise number being subject to the approval of reserved matters planning applications). A reserved matter application for Phase 3a for 82 dwellings is pending determination. The new dwellings are proposed to be a mixture of private market housing and affordable housing and make a significant contribution to meeting the need for new homes in the City.

4 THE SCHEME

- 4.1 As set out in section 1 above, the Scheme involves the delivery of new residential development in the Castleward area, comprising further phases of the wider CUV, an attractive and high quality residential-led development, in a key gateway location close to the City Centre. The Scheme represents a coherent residential development in its own right and will provide a high level of amenity for occupiers without reliance on the development of any future phases.
- 4.2 The Scheme will provide a minimum of 512 new homes in a desirable and highly sustainable location, being within a few minutes' walk of the principal shopping areas of Derby City Centre, workplaces both in the City Centre and on Pride Park, the bus station, the railway station, Bass' Recreation Ground and the banks of the River Derwent.
- 4.3 Outline planning permission for the residential-led development of the wider CUV (including the area encompassed by the Scheme) was granted on 8 February 2013 (reference 05/12/00563), for up to 840 homes. Planning approval was in accordance with Policy AC6 (Castleward Urban Village) of the adopted City of Derby Local Plan.
- 4.4 Phase 1 of the development at the CUV is complete. Phase 2 is currently in progress, albeit being progressed under a separate full permission rather than the outline permission described above.
- 4.5 As agreed in the Council's grant agreement with Homes England, reserved matters consent for future phases of development (all of which are comprised in the Scheme) will be obtained by:
- Phase 3 – 30th April 2020 (this date has been revised in agreement with Homes England)
- Phase 4 – 31st March 2023
- Phase 5 – 31st March 2027
- 4.6 The plan at Appendix A shows the indicative development phasing for the Order Land.
- 4.7 The *minimum* number of new dwellings to be delivered under the Scheme is 512, being the number, the Council is contracted to deliver under the terms of the Housing Infrastructure Fund (HIF) grant provided by Homes England (see paragraph 12.9). The actual figure is currently expected to be higher. There is capacity for a further 675 new dwelling pursuant to the outline planning permission with the option of seeking a new planning permission, if required. The exact number of dwellings to be constructed within each future phase will depend upon the detailed design and prevailing market conditions at the time. The benefits of the Scheme, as set out in this Statement of Case, are based on the assumption that only the minimum number of new dwellings are delivered.
- 4.8 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 private car and to promote walking and the informal interactions between neighbours that result.
- 4.9 Separately, to the development of the Scheme, the Council is progressing the development of a new primary and nursery school on a site lying approximately 100m outside and to the south of the

Order Land. Scheduled to open in September 2021, the school will form a focal point for the new community, encouraging interaction between neighbours and providing facilities for social and community groups to meet.

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

5 JUSTIFICATION FOR THE USE OF COMPULSORY PURCHASE POWERS

The statutory and policy tests

- 5.1 Section 17(1)(a) Housing Act 1985 (“**1985 Act**”) 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*”.
- 5.2 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*”.
- 5.3 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*”.
- 5.4 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.*”
- 5.5 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*”.
- 5.6 Further, at paragraph 147 of the Guidance it provides that, “*The main uses of this power have been to assemble land for housing and ancillary development, including the provision of access roads; to bring empty properties into housing use; and to improve substandard or defective properties. Current practice is for authorities acquiring land or property compulsorily to dispose of it to the private sector, housing associations or owner-occupiers*”.

Existing Housing Need

National and local policy

- 5.7 It is widely acknowledged by stakeholders that England continues to experience a housing crisis. The effects of this include a widening ratio of earnings to house prices, falling rates of home ownership, a rise in the age of first time buyers and rising levels of homelessness. According to the Government’s 2017 White Paper, ‘*Fixing the Broken Housing Market*’,

“The cause is very simple: for too long, we haven’t built enough homes.”

The White Paper set out the aim to significantly increase building levels, and went on to state:

“We must make as much use as possible of previously-developed (‘brownfield’) land for homes – so that this resource is put to productive use, to support the regeneration of our cities, towns and villages, to support economic growth and to limit the pressure on the countryside.”

- 5.8 The White Paper set out the Government's intention to amend the National Planning Policy Framework ("NPPF"), to strengthen support for high-quality, high-density residential development in urban centres that are well served by amenities and public transport. This was given effect by the introduction of a new Chapter 11 on '*Making Effective Use of Land*' in the version published in February 2019.
- 5.9 The updated NPPF encourages authorities to plan for larger scale development (*NPPF, paragraph 72*) and gives extensive support to planning policies and decisions that will bring about an increase in residential densities in urban areas, stating:
- "Plans should contain policies to optimise the use of land in their area and meet as much of the identified need for housing as possible. This will be tested robustly at examination and should include the use of minimum density standards for city and town centres and other locations that are well served by public transport. These standards should seek a significant uplift in the average density of residential development within these areas, unless it can be shown that there are strong reasons why this would be inappropriate."* (*NPPF, paragraph 123*)
- 5.10 Beyond this support, the NPPF encourages local authorities to intervene more directly where they can promote the development of new homes:
- "Local planning authorities, and other plan-making bodies, should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs, including suitable sites on brownfield registers or held in public ownership, using the full range of powers available to them. This should include identifying opportunities to facilitate land assembly, supported where necessary by compulsory purchase powers, where this can help to bring more land forward for meeting development needs and/or secure better development outcomes."* (*NPPF, paragraph 119*)
- 5.11 The Government published a consultation report entitled "Planning for the Future" on 6 August 2020 with details on radical changes to England's planning system. The proposed changes will make it easier to build new homes and commercial buildings thereby speeding up development in areas designated for growth.
- 5.12 In 2015, the Government designated Derby City Centre (including the Order Land and the wider CUV area) as a Housing Zone, indicating the particular desirability of building new homes here.
- 5.13 The Scheme is an opportunity to facilitate land assembly, supported by compulsory purchase powers, to meet development needs and secure better outcomes, promoted by the NPPF and required by the Local Plan, by the delivery of high quality, mixed tenure homes, transforming the Eastern Fringes of the City Centre into a vibrant residential and commercial neighbourhood where people will enjoy a high quality of life within a distinctive, accessible and sustainable urban environment. The Scheme will contribute to delivery of the new homes that are urgently needed nationwide.

- 5.14 Phase 1 of the regeneration of Castleward delivered new public realm, open space and a boulevard as a catalyst to provide a high quality environment through future developments.

Local housing policy

- 5.15 The evidence shows that Derby requires a quantitative increase in the number of homes and an improvement in the quality of the housing offer, and that the CUV is an appropriate and desirable location to deliver these.
- 5.16 The Council's adopted Local Plan, Part 1 sets out a requirement to deliver a minimum of 11,000 new homes in the City over the plan period (2011 to 2028). The objectively assessed housing need is in fact higher than this, at 16,388, with the remaining balance to be delivered elsewhere in the Housing Market Area, which also includes South Derbyshire District and Amber Valley Borough. The objectively assessed need arises from evidence based on the projected population growth, changes in headship rates and migration over the Local Plan period.
- 5.17 The evidence base for the Local Plan therefore establishes the city-wide need for a quantitative increase in housing in the City, both for private sale and affordable housing.
- 5.18 The Local Plan Part 1 specifically identifies Castleward as part of an "area for change" in policy AC6 and sets an expectation that "a minimum of 800 new high quality, mixed tenure homes" will be delivered in this location.
- 5.19 Policy AC6 (at paragraph 6.6.3) goes on to state that:

"Castleward occupies a strategic position between the Core Area and the railway station. It has a wide range of uses including offices, industry, car showrooms and warehousing. It also contains a large amount of surface car parking. This area is considered to be under used and is an inefficient and mostly inappropriate use of land in such a prominent, important and sustainable location. The regeneration of this area for a high-density mixed-use development will make more efficient use of the land and can provide much greater benefits to the City's economy and environment."

And that (in the policy summary on page 90),

"The Council will work with partners to ensure that regeneration of the Eastern Fringes (including Castleward) is delivered in a comprehensive manner and will use compulsory purchase powers if necessary, to ensure delivery."

- 5.20 The area-specific policies of the Local Plan are underpinned by an extensive evidence base, for example policy AC6 states that the regeneration of Castleward will deliver a minimum of 800 new high quality, mixed tenure homes creating a new and sustainable community. The Local Plan was robustly tested in public examination and therefore requires both a quantitative increase and qualitative improvement in housing by 2028, to which the Scheme will make a significant contribution.
- 5.21 Affordable housing needs in the City are significant and policy CP7 (page 32) sets out requirements related to affordable and specialist housing. The policy requires that a minimum of

30% affordable housing is provided on residential developments of 15 or more dwellings, subject to development viability.

- 5.22 Policy AC6 draws upon and develops an earlier policy document, the City Centre Eastern Fringes Area Action Plan, which, whilst not progressed to adoption, was developed as a policy document and remains a material consideration. This gives further support to the delivery of the wider CUV development, as an important brownfield opportunity for the delivery of housing, improving the vitality of the City Centre through more urban living, and making the most of this highly sustainable location which encourages walking and the use of public transport.
- 5.23 The wider CUV development (including the Scheme) is also taken into account in Derby's Strategic Housing and Employment Land Availability Assessment, which assumes that all homes can be delivered within the ten year timeframe to 2028, thus making an important contribution to meeting the Local Plan target.

Local need for a quantitative increase and qualitative improvement in housing

- 5.24 As at 31 March 2020, 7584 households were on the Council's Housing Register in need of affordable housing, because their current accommodation did not meet their needs. Of these, 4464 were single people or couples with no children, and the remaining 3120 had children. Applicants who made a bid in the last 12 months were 4,369. Even though not all applicants made a bid for housing over the preceding 12 months there were significantly fewer properties available to let than applicants bidding for housing. The average number of lettings for 2019/20 was 668, a number that has been reducing over the last three years. This is due in part to the use of stock for additional temporary accommodation. New households apply to join the Housing Register all the time while turnover and the number of suitable properties available to let is reducing. In summary, the level of affordable stock in Derby is not sufficient to meet need.
- 5.25 The evidence from the Council's housing register establishes that a quantitative increase in affordable housing is therefore required.
- 5.26 The Scheme sits within a wider area which benefits from outline planning permission for up to 840 new homes. The outline permission requires 30% of the homes provided are affordable housing, which equates to up to 210 affordable homes, subject to viability and depending on the density of future development.
- 5.27 The Council's Private Sector Stock Condition Survey shows that 48.9% of the housing stock in Arboretum ward, which includes Castleward and much of the City Centre, is of pre-1918 construction and suffers from problems associated with its age. Many larger homes have been sub-divided to form apartments or houses in multiple occupations. It is estimated that 25.7% would fail the Decent Homes Standard (compared to 21.6% nationwide).
- 5.28 The Council's Urban Renewal Strategy (2016) explains that (Part 3):

“Our strategy for urban renewal focuses primarily on inner-city areas, where there are densely populated neighbourhoods of un-modernised Victorian terraced houses, and a high number of

empty properties. These areas are often characterised by high levels of deprivation, where residents also have a significantly lower life expectancy compared to other parts of the city."

- 5.29 The Urban Renewal Strategy sees the Council's intervention in the Castleward area as a critical part of its wider approach of "*renovating and investing in communities to improve quality of life for residents and also for people working or visiting an area*", in this case by replacing inappropriate low-density employment uses with a desirable residential neighbourhood (Part 3).
- 5.30 The Derby Renaissance Board (a public-private partnership) has published its City Centre Masterplan, setting out ambitions for a Living City, with an increase in residential uses to support the City Centre's retail, leisure and evening economy sectors to benefit the whole City and region.
- 5.31 The design ethos and vision for Castleward has been to create, "*a vibrant, exemplar quality, mixed use and sustainable community: a place that will open up this part of the City for new homes, businesses and leisure uses; a place which will provide an attractive new boulevard from the station to the City Centre and contribute to the long term future of the City as a whole*". Extract from Compendium Living's bid document responding the Council's Competitive Dialogue process pre-2011.
- 5.32 The key urban design principles embodied in the masterplan for the CUV also include Castleward Square, a quality hard and soft landscaped area of public open space (completed), taller 'gateway' buildings (built as part of Phase 1 along Castleward Boulevard), connectivity and enhancement to Bass' recreation ground (yet to be implemented), connectivity to Railway Conservation Area around Midland Terrace (achieved through Castleward Boulevard) and a new school and nursery (now on site and under construction).
- 5.33 The key specification and detailed design standards for each phase of development also incorporate or take reference from the following built environment guidance: Building for Life, Lifetime homes, BREEAM, Code for Sustainable Homes and Inclusive Design.
- 5.34 Compendium Living have already completed Phase 1 comprising 164 homes and 12 commercial units that incorporate these design and construction quality standards. This step change in the quality of the local housing offer in the CUV has been continued with the Phase 2(a) scheme for 54 homes that is now nearing build completion.
- 5.35 The development phases constructed to-date incorporate a mix of dwelling types, including affordable housing, that respond to the demands of the open market and particular local housing needs. The phases therefore incorporate two, three and, in Phase 1, some four-bedroom homes that are identical in specification and provide for true tenure-blind build quality.
- 5.36 To date the affordable homes have been transferred to The Riverside Group Limited, the 50% shareholder in Compendium Living with Lovell Partnerships Limited. To ensure affordable housing does not compromise the viability of development phases, grant funding from Homes England's Shared Ownership and Affordable Housing Programme (SOAHP) or the Council's Housing

Revenue Account (HRA) is accessed and any additional specification requirements attached to the grant funding conditions is incorporated within the affordable homes. For example, there are 12 two-bedroom apartments in Phase 2(a) let for affordable rent, which the Council has supported with HRA funding. The ground floor apartments have been enhanced to include full wet room provision within the bathrooms; which allows these homes to be let to elderly residents or those with Motability requirements without the need for further modification.

- 5.37 If the regeneration ambitions of the Council, its residents and stakeholders are to be realised, then sustaining a qualitative improvement in the housing offer will be required to retain existing households and attract new occupiers.

Wider social, environmental and economic benefits

- 5.38 Development on this scale 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:

- 5.38.1 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;
- 5.38.2 improving the image and perception of the City for residents, for visitors arriving in the City at the railway station and for potential investors;
- 5.38.3 optimising the use of land in an important City fringe location; and
- 5.38.4 assisting existing businesses in the area to relocate to suitable premises that have long term viability as commercial accommodation.

Dis-benefits to be compared to benefits of new housing delivery

- 5.39 The identified area currently comprises an established employment zone on the edge of Derby City Centre. It provides predominantly secondary accommodation for a range of activities. There are currently 27 businesses trading from the proposed Scheme area. This includes a number of linked trade showroom businesses which taken as a single entity equates to 21 business occupiers in the proposed Scheme area.
- 5.40 Based upon published SIC codes 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.
- 5.41 The dis-benefit of the Scheme will be the displacement of 21 existing business occupiers who have in total an estimated total of 205 FTE employees. Based on output level data derived from the 2011 Census, it is estimated that around 65% of those employed in the area (133 FTE employees) reside within the City of Derby. Details of these businesses, together with the number of employees the Council understands them to have, and the Council's current assessment of their prospects for relocation, are summarised in the table below:

Name of affected business (nature of use)	Order map reference	Number of employees	Full time	Part Time	Prospects for relocation
Alpha Pro Creative <i>(creative music studios)</i>	17	6	0	6	Good
Bathroom Traders Ltd <i>(showroom/retail/storage)</i>	41	See Midcastle Ltd	See Midcastle Ltd	See Midcastle Ltd	Good
Bustler Market <i>(monthly pop-up street food market and event space)</i>	40	11	1	10	Very good
Cosy Direct <i>(supply/distribution of educational resources)</i>	6, 39	75	72	3	Have found relocation property
DCC Autos <i>(vehicle service/repairs)</i>	32, 35	1	1	0	Challenging
Derby Auto Electrical Services <i>(vehicle parts supply, MOTs, vehicle service/repairs)</i>	24, 31, 35	28	28	0	Challenging
Derby Timber Supplies <i>(manufacture of timber products)</i>	34	4	4	0	Good, have secured relocation property.
Derbyshire County Transport – Depot <i>(vehicle depot for public sector organisations)</i>	11	12	12	0	Challenging
Embody Tattoo <i>(tattoo studio)</i>	14	2	2	0	Very good
FK Solutions <i>(supply of food products)</i>	45	5	5	0	Very good
Hawkins & Shepherd <i>(vehicle service/repairs)</i>	8	4	4	0	Blight purchase notice served and accepted.
Juice Marketing Ltd, trading as Dream Doors <i>(storage units/showroom)</i>	14	Unmanned, access only	0	0	Very good
KJ Motors <i>(vehicle service/repairs)</i>	35, 36	1	1	0	Challenging

Name of affected business (nature of use)	Order map reference	Number of employees	Full time	Part Time	Prospects for relocation
Life Cycle UK <i>(charity workshop - bicycle maintenance)</i>	14	4	0	4	Very good
M&B Motors <i>(vehicle service/repairs)</i>	18, 19	5	4	1	Challenging
Midcastle Ltd <i>(incorporating SupaPlumb, First Electrical Wholesalers Ltd, Lamp Shed and Power Adaptors UK*) (showroom/retail/storage) *Power Adaptors UK plot reference 41 were surveyed as part of the same group due to similar family ownership.</i>	16, 30	28	25	3	Good
Mr Mustards <i>(sandwich shop)</i>	20	6	3	3	Very good
National Car Park / Alcora – Elevate Property Group (Liversage Street Ltd and John Street Ltd) <i>(car park)</i>	22	2	0	2	n/a
Speedy Glass Ltd <i>(storage)</i>	14	Assumed access only	0	0	Very good
Tarmac Trading Ltd <i>(manufacture and distribution of ready-mixed concrete)</i>	15, 29	6	2	4	Challenging (due to nature of use)
The Kitchen and Bedroom Warehouse Ltd <i>(supply of kitchen/bedroom appliances)</i>	35, 38	7	7	0	Good
Willow Coffee <i>(coffee & tea wholesalers)</i>	27, 28	8	8	0	Very good
Total employees		215	179	36	

- 5.42 The Council has sought to provide its current assessment of the prospects of each business being successfully relocated. This is based on feedback from the businesses about their requirements, local market intelligence and applying the following indicative criteria:
- 5.42.1 **Very good** – the business is small in scale, their requirements are generic without the need for specialist premises, and/or would have a wide choice of possible locations;
 - 5.42.2 **Good** – as above, but space requirements are greater;
 - 5.42.3 **Medium** – as above, but space requirements are greater. There are: some specialist requirements; constraints on location; and/or potential planning or environmental constraints; and
 - 5.42.4 **Challenging** – used here to refer to motor trade businesses and the Tarmac site.
- 5.43 Some motor trade businesses may find it particularly challenging to relocate as customers choose them because they are close to the City Centre and they may lose significant custom if they relocate in a highly competitive market. In addition, they require the appropriate planning consent, and are more at risk of objections from neighbouring occupiers to such a use, owing to the number of vehicles arriving and potential noise and smells.
- 5.44 The concrete batching plant operated by Tarmac Trading Ltd is a specialist industrial use which will be perhaps the most challenging to relocate. This is a relatively large site, with regular heavy goods vehicle movements and the potential impact on neighbouring occupiers may make it challenging to secure planning consent on a new site. Tarmac is a remaining objector in respect of whom further information can be found at paragraph 15.6.
- 5.45 It is acknowledged that the Scheme will mean that businesses can no longer operate in a location that they and their customers may have found convenient over the years. However, the decision to repurpose the land as a residential neighbourhood was taken at a policy level through the Local Plan Part 1, which was subject to extensive public consultation, political scrutiny and examination in public (see 5.16– 5.18). The Scheme is the means by which this democratically agreed vision of Derby's future is now being realised.
- 5.46 Any businesses that are unable to be relocated will be eligible to receive compensation in accordance with the Compensation Code. In addition to the businesses, there is a piece of telecommunication apparatus that will have to be relocated. This comprises of a cabinet with associated equipment / apparatus owned by CenturyLink Communications UK Limited, a statutory undertaker, located on Canal Street on plots references 9, 12, 13, 23 and 30. CenturyLink is a remaining objector in respect of whom further information can be found at paragraph 15.4.
- 5.47 Western Power Distribution, a statutory undertaker, have indicated that their plant and equipment within plot reference 55 will require relocating. To the extent this is necessary such apparatus, plant and equipment will be relocated to accommodate the Scheme. Western Power Distribution is a remaining objector in respect of whom further information can be found at paragraph 15.3.

Compliance with the Guidance

5.48 Paragraph 147 of the Guidance indicates certain information is to be included with applications for confirmation of compulsory purchase orders made pursuant to section 17 Housing Act 1985. The information required is as follows:

5.48.1 there are approximately 110,300 dwellings in the Council's administrative area according to the 2019 Derby Stock Condition Report;

5.48.2 there are an estimated 12,500 substandard dwellings in the Council's administrative area;

5.48.3 there were 102,271 households in the Council's administrative area as at the 2011 Census. 7584 households were on the Council's Housing Register and required the provision of housing as at 1 October 2019;

5.48.4 as at 4 October 2019, the Council owned a total housing stock of 12,671, broken down as follows:

	1 bedroom	2 bedrooms	3 bedrooms	4+ bedrooms	Total
Houses	68	1,761	5,056	178	7,063
Bungalows	986	302	89	2	1,379
Flats and maisonettes	2,837	1,327	65	-	4,229
Total	3,891	3,390	5,210	180	12,671

5.48.5 The Scheme is not intended to provide housing of a particular type, and it is likely that affordable housing will be provided by a Registered Provider, rather than by the Council directly.

5.48.6 The Scheme will deliver a range of market and affordable housing, and is not intended to meet the specialist housing need of any particular group;

5.48.7 The Council does propose to dispose of the land acquired under the Order to a third party, namely Compendium Regeneration Ltd (trading as Compendium Living), who are the Council's development partner. Full details of these arrangements can be found at section 12 of this Statement.

Whether the purposes for which the proposed Order Land is to be acquired could reasonably be achieved by any other means within a reasonable timeframe

5.49 The Order Land has been identified as the appropriate site for the delivery of a contracted minimum of 512 new dwellings. The purpose of the Scheme and its benefits are set out above. A comprehensive approach to development is required to realise the aspirations of the relevant planning policies and the public benefits that would result. 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. 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.

- 5.50 Whilst discussions have taken place with affected landowners, the Council has been unable to acquire all of the relevant interests required for the Scheme by agreement and, whilst discussions with landowners will continue throughout the compulsory purchase order process, there is no realistic prospect of the site being fully assembled without the use of compulsory purchase powers.
- 5.51 The Council's role is primarily one of enabling development. It is considered that the failure to bring forward the Scheme for redevelopment, in spite of a positive planning framework, is largely down to the fragmented nature of the land ownerships across the site, poor neighbouring land uses, and the difficulty in creating developments that are economically viable, where the costs of brownfield remediation are high and market prices are comparatively modest when compared with more attractive greenfield locations outside of the City. These matters cannot be realistically addressed without the intervention of the Council.
- 5.52 The Council has committed funding (both grant aid from Homes England through the HIF and its own revenue resources) to support the acquisition of the Order Land. The Council also has existing freehold interests within the Order Land, together with Homes England and the developer partner, Compendium Living. The Council is providing administration, project management and professional services / expertise to complete land assembly.
- 5.53 In conclusion, the Council is satisfied that it has met the test in section 17 of the Housing Act 1985. The Scheme will achieve a quantitative and qualitative housing gain. The Council is also satisfied that the dis-benefits arising from the interference with private rights are outweighed by the public interests benefits of the Scheme.

6 CONSULTATION

- 6.1 Prior to the submission of the outline planning application in 2013, extensive consultation related to regeneration plans was undertaken with local stakeholders, businesses, community groups and the general public in the wider CUV area. Initial consultation in the form of questionnaires, events and focus groups was used to inform the preparation of the Masterplan proposals, and a number of changes to the outline design were made in response to feedback. These are described within the Statement of Community Involvement submitted with the application. The OPUN Design Review Panel was also invited to give an assessment of the initial Masterplan scheme and their comments were taken into account in the final design.
- 6.2 Following submission of the planning application, the local planning authority publicised and consulted on the plans. All responses relating to relevant planning considerations were taken into account in the Officer's Report to Committee and informed the decision to grant planning permission on 8 February 2013.
- 6.3 With regard to the acquisition of land and properties and the potential use of the Order making powers, the following engagement activities were undertaken:
- 6.3.1 **2015 to 2018** (inclusive) – Initial conversations held with affected parties to discuss the forthcoming phases of the CUV, the likely timeline for implementation and the potential for early acquisition of land and properties; and
- 6.3.2 as a co-sponsor of the CUV with the Council, Homes England attempted to acquire land currently comprised within the Order land with their capital funding but were unsuccessful. In addition, the Council engaged with various landowners, in an attempt to acquire land interests by agreement.
- 6.3.3 **Spring 2019**
- **27 March 2019** – the Council sent letters to all interested parties prior to the formal land interest requisitioning process.
 - **3 April 2019** – Land referencing agent, Ardent Management Ltd issued, on the Council's behalf, formal requisitions for information pursuant to section 16 Local Government (Miscellaneous Provisions) Act 1976 together with a frequently asked questions sheet.
 - **8 April 2019** – those with subsoil interests were also sent a formal requisition for information pursuant to section 16 Local Government (Miscellaneous Provisions) Act 1976.

6.3.4 **Summer 2019**

- 9th July 2019 – The Council sent a letter to all those with interests in the land potentially affected by any future Order in respect of the CUV proposals to provide them with an update on the proposed timings of any future steps so that the proposal could be considered by the Council's Cabinet in the Autumn of 2019.

6.3.5 **Autumn 2019**

- A business intelligence survey was conducted by Ardent Management Ltd to establish the number of employees, the nature of the businesses and obtain other information to support the Council's assessment of their relative ease of relocation.
- 19th September 2019 – A letter was sent to those affected by the proposed Order by the Council confirming the parcels of land comprised within the Order Land with a map enclosed. Letters were also sent to those not directly affected by Order but were located in the vicinity.
- 30th September 2019 – A letter was sent to all affected parties to invite them to an information event on the 9th October 2019. This was followed up with calls and emails.
- 9th October 2019 – An information event was held with affected parties to provide information on: the work completed since November 2018 on the acquisition of land and properties; the intended use of Order powers; the next steps in that process and to respond to questions from those in attendance.
- 1st November 2019 – A letter was sent to all parties advising them of the date of the Cabinet meeting at which approval would be sought for the Order.
- 25th November 2019 – A letter was sent to inform all affected landowners that the Council's Cabinet had approved the making of the Order and signposted them to Thomas Lister, the Council's agent for these purposes, for support on relocation as the Council remained keen to acquire land interests by mutual agreement, where this was possible.

6.3.6 **Winter 2019/20**

- Following approval of the Council's Cabinet to the making of the Order (13 November 2019) the Council's appointed agent, Thomas Lister, attempted to make contact with all affected businesses in order to progress the potential

acquisition of their interests and to further understand their requirements informing relocation options.

6.3.7 **Spring 2020**

- In advance of the Council making the Order in March 2020, a letter was issued by the Council to those affected by the Order on the 2 March 2020. This provided indicative development timescales, an update on the Order making process and re-iterated the Council's preference to acquire by mutual agreement, where possible.
- Following up on the end of the objection period, the Council working with their agent Thomas Lister, have been in contact with all of the remaining objectors to the Order. Meetings have been convened with those interested in meeting to discuss the possible acquisition of their interest by agreements and/or their individual relocation options, see Section 7.
- In light of COVID-19, the Council has sent three further letters including to those affected by the Order. The first letter issued on 1 April 2020 was to all known businesses in the City of Derby which signposted information from the Government providing options for financial support. The second and third letters followed in the Summer of 2020 – see below.

6.3.7 **Summer 2020**

- The second letter dated 12 June 2020 targeted all businesses within Castleward including those affected by the Order, offering them a "Top Up" grant if they had not already benefitted from other COVID-19 government grants. The letter also re-iterated that it was the Council's preference to acquire by mutual agreement with details of someone to contact to progress those negotiations. Of the businesses affected by the Order, there were two expressions of interest for the "Top Up" grant.
- A third letter dated 16 July 2020, was sent to affected businesses, identifying a potential site to which they could relocate, approximately one mile south of Castleward. The Council received two responses requesting further information.

7 EFFORTS TO ACQUIRE LAND BY AGREEMENT

- 7.1 Single ownership of the Order Land is required to implement the Scheme. Negotiations have been taking place with all landowners and other parties with interests in the Order Land. The Council has actively sought to acquire land and property required for the Scheme since 2015; although there were earlier attempts dating back to 2002 (see also section 6).
- 7.2 Although the Council is not obliged to find alternative premises, the Council is providing relocation support through Marketing Derby, a public/private agency tasked with the wider regeneration of Derby through the inward attraction of new investment. The Council will continue to engage with affected businesses and local agents, developers and investors to explore relocation options. Through these networks and using other means of searching the commercial market in Derby for alternative premises, the Council is seeking to assist businesses to identify suitable relocation options within the City of Derby.
- 7.3 The Council has been active in its engagement with owners and occupiers of the Order Land. In March 2019 the Council wrote to all landowners in the wider CUV area to advise them that it wanted to purchase their interests by agreement in order to progress with the redevelopment and also extended the offer of assistance with relocations. A total of 130 separate land interests across the wider CUV area were identified and questionnaires issued under section 16 of the Local Government (Miscellaneous Provisions) Act 1976. This resulted in a number of replies, promoting conversations with the Council about its regeneration plans including requiring land for new housing as well as the delivery of a new primary school. The Council employed a specialist land referencing company, Ardent Management Ltd, to undertake this exercise.
- 7.4 The Order Land comprises 21 businesses, one charity, and one site owned by a neighbouring local authority. The Council has sought to engage with all businesses and interests within the Order Land and has opened negotiations with all affected parties and thus far, has been able to agree terms with one. In addition to the correspondence mentioned in Section 6, the following contacts history and status of negotiation in summarised below for each of the business, with remaining objectors identified by grey shading:

Name of affected business (nature of use)	Order map reference	Status of negotiations and Contacts made
Alpha Pro Creative (creative music studios)	17	<ul style="list-style-type: none"> • Partner controlled. • Meeting held 15 April 2019. • Thomas Lister provided information for available alternative sites on 2 and 30 December 2019 and confirmed continued assistance was available or from Marketing Derby. • Further letters sent by the Council in March, April, June and July 2020 (see Section 6) offering contact details to discuss relocation support and grant assistance in light of Covid-19 to which no response has been received.
<p>Midcastle Ltd (incorporating Bathroom Traders Ltd, SupaPlumb, First Electrical Wholesalers Ltd and the Lamp Shed) (showroom/retail/storage) Leaseholder at plot references 16 and 30</p> <p><u>REMAINING OBJECTOR [see paragraph 15.7]</u></p>	16, 30	<ul style="list-style-type: none"> • Initial contact made August 2017 through First Electrical. • Meeting held 3 October 2019. • Attended Information Event hosted by the Council on 9 October 2019. • Thomas Lister provided information at a meeting on 3 December 2019. • Following attempts made by Thomas Lister to review by phone, most recent contact (and information) was provided by email on 30 April 2020. • Business proprietor is shielding as high risk during COVID-19 and advised unable to deal with CPO and business relocation during shielding. Tentative approaches were made to offer assistance but no response received. • Potential further approach to be considered when shielding restrictions lifted. • Further letters issued by the Council in March, April, June and July 2020 (see Section 6) offering contact details to discuss relocation support and grant assistance in light of Covid-19 to which no response has been received.

Name of affected business (nature of use)	Order map reference	Status of negotiations and Contacts made
Bustler Market <i>(monthly pop-up street food market and event space)</i>	40	<ul style="list-style-type: none"> • Became a tenant of co-sponsor Homes England in 2019, aware of subsequent development Phase 3a expected in 2020. Homes England, acting on behalf of the CUV regeneration partnership. • Attended Information Event hosted by the Council on 9 October 2019. • Further letters issued by the Council in March, April, June and July 2020 (see Section 6) offering contact details to discuss relocation support and grant assistance in light of Covid-19 to which no response has been received. • An alternative site is now being considered following discussion with the Council's development partner and landowner Compendium Living for a temporary arrangement prior to re-development plans later.
Cosy Direct <i>(supply/distribution of educational resources)</i>	6, 39	<ul style="list-style-type: none"> • Since November 2014, there has been ongoing communication concerning the Council's regeneration plans through landlord Compendium Living, the Castleward development partner with timescales updated as to when the land would be required for housing re-development in the future. • Further letters issued by the Council in March, April, June and July 2020 (see Section 6) offering contact details to discuss relocation support and grant assistance in light of Covid-19. As a result, Cosy applied for the "Top Up" Grant and was successful in securing funding. • Cosy have been pro-active in considering relocation options and secured an option to relocate this year.
DCC Autos <i>(vehicle service/repairs)</i>	32, 35	<ul style="list-style-type: none"> • Letter issued by Thomas Lister on 3 January 2020 requesting a meeting by with no response received. • Further letters issued by the Council in March, April, June and July 2020 (see Section 6) offering contact details to discuss relocation support and grant assistance in light of Covid-19 to which no response has been received.

Name of affected business (nature of use)	Order map reference	Status of negotiations and Contacts made
<p>Derby Auto Electrical Services (vehicle parts supply, MOTs, vehicle service/repairs) Plot reference 13 with respect to subsoil interest fronting Unit 1, 36 Canal Street; Plot reference 24 leaseholder and occupier; Plot reference 31 owner and occupier; Plot reference 35 occupier.</p> <p><u>REMAINING OBJECTOR [see paragraph 15.8]</u></p>	<p>24, 31, 35</p>	<ul style="list-style-type: none"> Initial contact made by Thomas Lister by letter in August 2017. Meeting held 5 September 2018. Attended Information Event hosted by the Council on 9 October 2019. Communication 14 November 2019. Conversations ongoing, most recent correspondence 1 May 2020. Further letters sent by the Council in March, April, June and July 2020 (see Section 6) providing Council officer contact details for the purposes of discussing relocation support and grant assistance in light of Covid-19, to which no response has been received. Not before date given of March 2024 but confirmed Council would wish to acquire the property and engage with business at any time prior to the not before date.
<p>Derby Timber Supplies (manufacture of timber products)</p>	<p>34</p>	<ul style="list-style-type: none"> Initial contact made via letter, August 2017. Conversations included meeting on 13 April 2019. Agreement in principle reached to acquire, Summer 2019. Attendance at information Event hosted by the Council on 9 October 2019. Discussion held with Thomas Lister 12 February 2020 and since ongoing discussion pursuing acquisition. Further letters sent by the Council in March, April, June and July 2020 (see Section 6) offering Council officer contact details to discuss relocation support and grant assistance in light of Covid-19. As a result, Derby Timber Supplies applied for the Top Up Grant and was successful in securing funding. Relocation premises now identified. Compensation claim to be considered for relocation costs once legal agreements to acquire have been entered into.

Name of affected business (nature of use)	Order map reference	Status of negotiations and Contacts made
Derbyshire County Transport – Depot <i>(vehicle depot for public sector organisations)</i>	11	<ul style="list-style-type: none"> • Meeting on site 10 June 2019. • Attendance at information Event hosted by the Council on 9 October 2019. • Meeting 26 November 2020. • Phone discussion 12 February 2020. • Further letters were sent by the Council in March, April, June and July 2020 (see Section 6) offering contact details to discuss relocation support and grant assistance in light of Covid-19. As a result, Derbyshire County Transport expressed an initial interest in the relocation site proposed, however this was later rejected due to site restrictions. • Most recent contact with Marketing Derby in July 2020 • Relocation property identified being considered.
Embody Tattoo <i>(tattoo studio)</i>	14	<ul style="list-style-type: none"> • Attendance at information Event hosted by the Council on 9 October 2019. • Phone conversation with Thomas Lister 12 February 2020. • Further letters were sent by the Council in March, April, June and July 2020 (see Section 6) providing Council officer contact details for the purposes of discussing relocation support and grant assistance in light of Covid-19 to which no response was received.
Hawkins & Shepherd <i>(vehicle service/repairs)</i> <u>REMAINING OBJECTOR [see paragraph 15.9]</u>	8	<ul style="list-style-type: none"> • Initial contact made by letter, August 2017. Meetings held 12 April 2019 and 24 September 2019. • Attendance at information Event hosted by the Council on 9 October 2019. • Correspondence with surveyor, 12 February 2020. • Further letters were sent by the Council in March, April, June and July 2020 (see Section 6) offering contact details to discuss relocation support and grant assistance in light of Covid-19. • A Blight Notice was submitted on 20th May 2020 requiring that the Council acquire the objectors' land. This has been accepted by the Council. • Acquisition price for property offered and under review. • Conversations ongoing, most recent correspondence is dated 5 June 2020.

Name of affected business (nature of use)	Order map reference	Status of negotiations and Contacts made
Juice Marketing Ltd, trading as Dream Doors (storage units/showroom)	14	<ul style="list-style-type: none"> • Conversation 3 October 2019. • 15th January 2020 – A letter was sent by the Council to Juice Marketing to advise them on the CPO timescales as they had not attended the 9 October 2019 information Event. • Further letters issued by the Council in March, April, June and July 2020 (see Section 6) offering contact details to discuss relocation support and grant assistance in light of Covid-19 to which no response has been received.
KJ Motors (vehicle service/repairs)	35, 36	<ul style="list-style-type: none"> • Attendance at information Event hosted by the Council on 9 October 2019 • Letter sent by Thomas Lister to arrange meeting in January 2020, with no response. • Further letters sent by the Council in March, April, June and July 2020 (see Section 6) offering Council officers contact details to discuss relocation support and grant assistance in light of Covid-19 to which no response has been received.
Life Cycle UK (charity workshop - bicycle maintenance)	14	<ul style="list-style-type: none"> • Attendance at information Event hosted by the Council on 9 October 2019 • Meeting was held with Marketing Derby 27 January 2020 to discuss requirements for relocation, but not aware of options pursued. • Further letters sent by the Council in March, April, June and July 2020 (see Section 6) offering Council officer contact details to discuss relocation support and grant assistance in light of Covid-19, to which no response has been received.
M&B Motors (vehicle service/repairs)	18, 19	<ul style="list-style-type: none"> • Meeting with landlord 13 August 2019 • Meeting 3 October 2019 • Attendance at information Event hosted by the Council on 9 October 2019 • Further letters sent by the Council in March, April, June and July 2020 (see Section 6) offering Council officer contact details to discuss relocation support and grant assistance in light of Covid-19, to which no response has been received.

Name of affected business (nature of use)	Order map reference	Status of negotiations and Contacts made
<p>Mognutia Food, trading as FK Solutions (supply of food products)</p> <p>C&N Property Limited</p>	45	<ul style="list-style-type: none"> Initial contact made in February 2017 and with owner C&N Property Ltd March 2017, with offers made and rejected). Attendance at information Event hosted by the Council on 9 October 2019 Meeting arranged 1 December 2020 was cancelled. Meeting held with the surveyor representing C&N Property Limited in December 2019. Owners' aspirations for property price considered to be in excess of market value and no further progress made. Further letters issued by the Council in March, April, June and July 2020 (see Section 6) offering Council officer contact details to discuss relocation support and grant assistance in light of Covid-19 to which no response has been received.
<p>Mr Mustards (sandwich shop)</p>	20	<ul style="list-style-type: none"> Attendance at information Event hosted by the Council on 9 October 2019. Letter issued 3 January 2020 by Thomas Lister to arrange meeting, to which no response was received. Further letters sent by the Council in March, April, June and July 2020 (see Section 6) offering Council officer contact details to discuss relocation support and grant assistance in light of Covid-19, to which no response has been received.
<p>Elevate Property Group, (car park operated by National Car Park in respect of plot reference 22. Purchase of adjacent plot 37 from Homes England as land assembly for proposed residential re-development is in progress)</p> <p><u>REMAINING OBJECTOR [see paragraph 15.5]</u></p>	22, 37	<ul style="list-style-type: none"> Initial contact made through previous owner of plot reference 22 (Alcora) in August 2017 Response provided 1 October 2019 Notification received following sale of land from Alcora to Elevate Property Group in Autumn 2019. Further letters issued by the Council in March, April, June and July 2020 (see Section 6) offering contact details to discuss relocation support and grant assistance in light of Covid-19, to which no further response has been received. Council and Thomas Lister met on 24 July 2020 to discuss terms for Option Agreement between the Council and Elevate – this is now agreed and allows Elevate to develop out its sites, but the Council retains a right to acquire in the event that development does not proceed.

Name of affected business (nature of use)	Order map reference	Status of negotiations and Contacts made
Speedy Glass Ltd (storage)	14	<ul style="list-style-type: none"> • Letter issued 3 January 2020 by Thomas Lister requesting a meeting with no response received. • Further letters issued by the Council in March, April, June and July 2020 (see Section 6) offering Council officer contact details to discuss relocation support and grant assistance in light of Covid-19, to which no response has been received.
Tarmac Trading Ltd (manufacture and distribution of ready-mixed concrete) <u>REMAINING OBJECTOR [see paragraph 15.6]</u>	15, 29	<ul style="list-style-type: none"> • Initial contact made. • February / March 2017. • Request for information made 3 April 2019. • Meeting 20 June 2019. • Meeting 3 October 2019. • Phone call with information provided 2 February 2020. • Further letters issued by the Council in March, April, June and July 2020 (see Section 6) offering contact details to discuss relocation support and grant assistance in light of Covid-19. • Conversations ongoing, most recent correspondence 28 May 2020. • Site searches continue with Marketing Derby and Thomas Lister undertaking. • Two relocation options currently being considered, one investigated in some detail.. • Email correspondence received 31 July 2020 to provide feedback about a relocation option identified.
The Kitchen and Bedroom Warehouse Ltd (supply of kitchen/bedroom appliances)	35, 38	<ul style="list-style-type: none"> • 23 May 2019 discussion held with the Council's agent, Thomas Lister to provide an update about the CUV regeneration plans and offer to discuss their land interest and relocation appetite. • Letter issued 3 January 2020 by Thomas Lister to arrange meeting with no response received. • Further letters issued by the Council in March, April, June and July 2020 (see Section 6) offering Council officer contact details to discuss relocation support and grant assistance in light of Covid-19. As a result, The Kitchen and Bathroom Warehouse Ltd expressed an interest in the relocation site proposed and Marketing Derby is providing them with the required relocation support.

Name of affected business (nature of use)	Order map reference	Status of negotiations and Contacts made
Willow Coffee <i>(coffee & tea wholesalers)</i>	27, 28	<ul style="list-style-type: none"> • Co-sponsor of CUV regeneration scheme Homes England informed their tenant in 2019 of requirement to vacate for subsequent development Phase 3a expected in 2020. • Attendance at information Event hosted by the Council on 9 October 2019 • Further letters issued by the Council in March, April, June and July 2020 (see Section 6 offering Council officer contact details to discuss relocation support and grant assistance in light of Covid-19. • Vacated as a tenant in Spring 2020.

7.5 The Council considers that the use of its compulsory purchase order making powers to acquire all outstanding interests in the Order Land and the new rights is required, as it has not yet been possible to achieve this by agreement and it is highly unlikely that it would be able to do so within an acceptable timescale, without the Order.

7.6 The Council is continuing to engage with those affected in the interests of seeking to acquire the Order Land and rights by agreement and a further update will be provided in the Council's evidence to the inquiry.

8 IMPEDIMENTS TO DELIVERY

- 8.1 Delivery of the Scheme is unlikely to be blocked by any impediments once land assembly is completed.
- 8.2 The Scheme benefits from the outline planning consent for the wider CUV (ref 05/12/00563), issued in February 2013. All material factors relevant to the acceptability of the development were considered and resolved at that stage, to the satisfaction of the Local Planning Authority. The applicant has the flexibility to deliver the Scheme either by submission of reserved matters applications relating to the existing outline permission or by the means of a new separate planning application. If the Council proceeds in reliance on the existing outline planning permission the following conditions will apply:
- 8.2.1 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 is now in pre-application discussion with officers, there will be no difficulty in meeting this timescale;
- 8.2.2 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. As described at 4.9, 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;
- 8.2.3 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 vary the condition could be made given that the proposed Scheme area does not affect any community organisations outside this area;
- 8.2.4 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. This condition could be varied through an application to amend the triggers, given the changes in the market and delivery of housing since the permission was granted;
- 8.2.5 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. This condition could be varied through an application to amend the triggers, given the changes in the market and delivery of housing since the permission was granted;

- 8.2.6 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, this condition could be varied through an application to amend the triggers, given the changes in the market and delivery of housing since the permission was granted.
- 8.3 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.
- 8.4 In order for the Scheme on the Order Land to progress, one or more reserved matters applications will need to be granted and, as discussed above, the first of these for Phase 3a is awaiting determination in September 2020. The outline planning permission sets out the overall design approach and a number of parameters, and all reserved matters applications will be consistent with this approach. It is therefore anticipated that there will be no difficulty in securing the reserved matters consents necessary to progress with the Scheme.
- 8.5 There are no other known impediments to the delivery of the Scheme once land assembly has been completed.

9 CONSERVATION AREA AND LISTED BUILDINGS

- 9.1 The Order Land is not within a conservation area and contains no listed buildings. To the east, towards the Derby railway station lies the Railway Conservation Area, designated in 1979. Planning applications for development within the CUV including the Scheme proposed, are assessed with this adjacent conservation area in mind.

10 SPECIAL CATEGORIES OF LAND

10.1 There are no known special categories of land within the Order Land.

11 VIEWS OF GOVERNMENT DEPARTMENTS

11.1 None expressed.

12 DELIVERY AND FUNDING

- 12.1 Paragraph 13 of the Guidance requires that the Council demonstrate that all the necessary resources are likely to be available to deliver the Scheme within a reasonable time-scale. Section 17(4) of the Housing Act 1985 provides that the Secretary of State may not confirm a compulsory purchase order made under these powers unless he is satisfied that the land is likely to be required within 10 years of the date the order is confirmed.

Delivery

- 12.2 The outline planning permission (see paragraph 4.3) establishes the capacity of the site in terms of a proposed mix and quantum of accommodation, providing a framework to developers as to the appropriate type of development on the site for the Scheme. The planning framework promotes the delivery of up to 840 new high quality, mixed tenure homes in the wider CUV area of which a minimum of 512 can be provided within the Order Land.
- 12.3 In light of the Cityscape Masterplan, the 2008 Area Action Plan Preferred Option, and the (then) emerging City Local Plan the Council resolved to focus increasingly on project delivery and in 2009 commenced a competitive procurement process for a development partner for the wider CUV.
- 12.4 In September 2011 the Council appointed Compendium Regeneration Ltd, trading as Compendium Living), a joint venture between Lovell Partnerships Ltd and The Riverside Group Ltd ('Compendium'), as its development partner for the wider CUV.
- 12.5 Compendium has successfully demonstrated its ability to deliver high quality development through Phase 1 of Castleward, and is working towards completion of Phase 2a in the coming months. Compendium and its constituent partners have extensive experience of brownfield residential development and regeneration, giving high confidence in the deliverability of future phases of the CUV, including the Scheme proposed on the Order Land.

Development agreement and the role of Compendium Living

- 12.6 Compendium entered into a development agreement and other associated documents with the Council, as the principal landowner and also Homes England. The Development Agreement provides the legal framework upon which the development is proceeding. Compendium is responsible for proceeding with the preparation of planning applications, as referred to above. Although the development agreement appoints Compendium to act as the developer of the CUV area, for all phases of the project, the commencement of development of each phase is subject to the satisfactory performance of the previous phase and the satisfaction of preconditions including, where necessary, the securing of external funding. If these pre-conditions are not met, then the Council reserves the right to terminate the relationship at its discretion and to appoint a replacement partner.
- 12.7 Compendium is expected to take the lead in site assembly but, in certain situations, it has been made clear that the Council would be prepared to consider the use of its powers of compulsory purchase to ensure that the regeneration of the area proceeds. In terms of land transfer, the

Council is prepared to grant long leasehold interests or freehold transfer of sites on a phased basis to Compendium, at agreed stages of the development process. Homes England, which is a significant landowner in the CUV area, is also prepared to make available its land ownership within the site area on terms to be agreed.

- 12.8 When land is transferred, Compendium is obliged to develop within a reasonable timescale consistent with their pre-approved development programme and this is agreed for each development phase. Given the Order Land is likely to be developed over a ten year timescale; where property is transferred but not immediately developed, the transfer will include a condition allowing the Council to buy back the land at market value within a ten year period in the event that housing development has not come forward. This would allow the Council to ensure housing is delivered by other means if necessary.

Funding required to deliver the Scheme

- 12.9 In March 2019 the Council secured funding from Homes England's HF programme, for the acquisition of land by 31 March 2022, to enable the delivery of at least 512 new homes by March 2030.
- 12.10 A revised funding agreement in November 2019 confirmed an increased grant total from Homes England of £7.5m, comprising £4.5m towards the construction of a new primary school and £3.0m towards land acquisitions for 512 new homes by 2030.
- 12.11 The use of Council Housing Revenue Account right-to-buy receipts helped switch part of the HIF funding to help fund the new primary school. Where sites are acquired using right-to-buy and HIF funding finance, land remains in the ownership and control of the Council and released to Compendium Living under the terms of the Development Agreement.
- 12.12 The Council has also committed to the principle of recycling any receipts received for its land in the CUV area for further housing land acquisition.
- 12.13 The Council and Compendium have entered into an indemnity agreement. This agreement provides that Compendium meet the cost of acquiring (either compulsorily or by agreement) land comprising the Order Land up to a total aggregate acquisition cost of £3.5m.

Funding breakdown of the scheme	£m
Housing Infrastructure Fund	3.0
Un ring-fenced HRA Right to Buy receipts	1.5
Capital receipt	0.5
Compendium Living contribution (non-HIF land)	2.8
Acquisition funding total	7.8
Compendium Living contribution for up to 10% contingency	0.7
Total Funding	8.5

- 12.14 In light of the Council's commitment to fund the Scheme through the funding received from Homes England, its own resources and from Compendium, the Council is satisfied that sufficient funding is available to enable it to:
- 12.14.1 complete the compulsory acquisition of the Order Land and meet statutory compensation claims together with all resource costs associated with making the Order; and
 - 12.14.2 deliver the infrastructure required to facilitate the Scheme.
- 12.15 The Council is also satisfied that the Order Land will be required for development well within the 10-year statutory timescale, and indeed has entered into a grant agreement with Homes England which requires the same.

13 HUMAN RIGHTS

- 13.1 Determining whether or not to confirm the Order, the Secretary of State must have regard to any interference with human rights, the provisions of the Human Rights Act 1998 and the European Convention on Human Rights (“**the Convention**”). The Secretary of State 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 Secretary of State also has to 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.
- 13.2 Article 1 of the First Protocol to the Convention 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 Act. 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 Statement of Case. 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.
- 13.3 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 will be notified, will have the right to make representations and/or objections to the Secretary of State, and objecting parties will have the right to be heard at a public inquiry. It has been held that the statutory processes are compliant with Article 6 of the Convention.
- 13.4 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 (namely the Act), 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.
- 13.5 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 (i.e. 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. The Compensation Code has been held to be compliant with Article 8 and Article 1 of the First Protocol to the Convention.

- 13.6 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.
- 13.7 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.
- 13.8 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.
- 13.9 There has been public consultation on the proposals to regenerate this area, and the opportunity has been given through the consideration of the planning applications to make representations on the proposals. Objections have now been received and a public inquiry will be held into the Order. Those whose interests are acquired under the Order, if it is confirmed, will be entitled to compensation as provided for by law.

14 EQUALITY AND DIVERSITY

- 14.1 In line with the Equality Act 2010 the Council has undertaken an Equalities Impact Assessment 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.
- 14.2 The Equalities Impact Assessment identified that the vast majority of the business owners and workforce affected by the proposed compulsory purchase are male, but in terms of other characteristics there is no predominating group. Therefore, it is possible to say that the dis-benefit of the proposals mainly affects men. The dis-benefits can be mitigated if businesses successfully relocate to other premises in a suitable location for their workforce to access. The Council is assisting businesses in the search for premises in which to relocate and maintain their business. 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.
- 14.3 The Equalities Impact Assessment 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:
- 14.3.1 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;
 - 14.3.2 promotion of equality of opportunity – the housing and employment opportunities which will expand opportunities and outcomes available locally;
 - 14.3.3 fostering good relations between different groups of people – by providing a pleasant and walkable residential neighbourhood, with little dependence on the private car, a new 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.
- 14.4 Following the assessment made in October 2019, upon further review in July 2020, it remains the case that the Council is satisfied that the Scheme does not have any negative impacts on equality and diversity and is consistent with its Public Sector Equality Duty.

15 OBJECTIONS AND THE COUNCIL'S RESPONSE

15.1 By the end of the objection period on 8 April 2020, seven objections were received.

15.2 The case made by each objector is considered in turn below and the Council reserves the right to expand and add to its response in due course.

15.3 WESTERN POWER DISTRIBUTION (EAST MIDLANDS) PLC

15.3.1 An objection dated 16 March 2020 was submitted by Western Power Distribution who have plant and equipment located in plot 55 of the Order Land. In addition, they also have subsoil interest in plot 13.

15.3.2 Summary of objection

15.3.3 **Western Power is a statutory undertaker. Western Power assert that they will not be able to carry out their duties the subject of their operating licence in the Order Land in the event it is confirmed.**

15.3.4 Council's Response

15.3.5 Although no specific plot or rights are referenced as likely to be interfered with by the development of land following the confirmation of the Order, the Council has been working closely with Western Power Distribution making positive progress towards a legal agreement to secure the withdrawal of their objection by making provision for the relocation of plant and equipment in the event this is required.

15.4 CENTURYLINK COMMUNICATIONS UK LIMITED

15.4.1 An objection dated 16 March 2020 was submitted by CenturyLink Communications Limited who have leasehold interest in plot 23 and are tenant occupiers of plots 9, 12, 13 and 30.

15.4.2 Summary of objection

15.4.3 The objection is made on three grounds:-

(1) the leaseholder and occupier is a statutory undertaker and is afforded protective rights under Section 16 of the Acquisition of Land Act 1981.

(2) The Council had not made a meaningful attempt to acquire the interest by agreement. To date no offer had been made to acquire the Property via private treaty.

(3) The need for and use of compulsory purchase is premature and plans appear uncertain.

15.4.4 Council's Response

15.4.5 The Council has been working closely with their agent CBRE to secure the withdrawal of their objection. Advanced discussions propose an agreement to allow CenturyLink to remain in occupation of the premises for a period following its compulsory acquisition. This allows sufficient time to CenturyLink for the purposes of facilitating relocation of their plant and equipment to existing premises nearby.

15.5 **LIVERSAGE STREET (DERBY) LIMITED AND JOHN STREET (DERBY) LIMITED**

15.5.1 An objection dated 7 April 2020 was submitted by Harrison Clark Rickerbys on behalf of their client who are the freeholder of plot 22 and have entered into a conditional purchase agreement to acquire plot 37 from the CUV's co-sponsor, Homes England.

15.5.2 Summary of objection

15.5.3 **The objection is made on four grounds:**

- (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;**
- (2) the Council has failed to consider an alternative scheme;**
- (3) the Order proposes the acquisition of more land than is necessary for the delivery of the CUV Scheme; and**
- (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.**

15.5.4 Council's Response

In response to ground 1:

As paragraph 5.16 above explains (and those paragraphs that follow), the Council's adopted Local Plan sets a requirement to deliver 11,000 new homes in the Council's administrative area. The evidence base for the Local Plan establishes a city-wide need for a quantitative increase in housing in the City and Castleward is particularly suited for this purpose as an area "for change" and having a strategic location. Further, the

demand for housing creates a local need with 7584 households in need of affordable housing, because their existing accommodation did not meet their need.

In terms of quantitative gain, the re-development of this land contributes to the delivery of at least 512 new homes, of the homes required, in the Local Plan period by 2028. Outline planning consent for development Phases 3-5 expects a minimum of 30% affordable housing, with Phase 3a delivering 33%.

In terms of qualitative need, the Council's private sector stock condition survey shows that just under 50% of the housing in the area incorporating Castleward is over 100 years old and suffers from problems associated with its age and does not meet modern standards. The provision of 512 new high quality homes constructed to modern standards will give rise to a significant qualitative improvement to the available housing stock.

Consequently, confirmation of the Order will result in both a quantitative and qualitative housing gain.

In response to ground 2:

The Council accepts that the objector's alternative proposals are aligned with the Council's aspirations for the Scheme in that they intend to deliver housing on the Order Land. However, in order to ensure the land is developed either by the objector or the Council, it requires that the Council has both a contractual means of ensuring that housing development is actually brought forward by the objector and, in the event that it fails to do so for any reason, that compulsory purchase powers are available as a fall-back. The Council and the objector are negotiating the terms of an agreement for these purposes, but none has been concluded at present. Irrespective of this agreement, given the prominence of the site and its importance to the Scheme, the Council requires a power of compulsory acquisition to guarantee delivery of the Scheme.

In response to ground 3:

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 Scheme. The site is necessary for the delivery of housing. If it were not delivered, both the quantitative and qualitative gain achieved by the Scheme would be materially compromised.

In response to ground 4:

The Council denies that its negotiations have been inadequate. In particular, it has been in negotiation with the objector's surveyors and heads of terms for an agreement have now been concluded.

15.6 TARMAC TRADING LIMITED

15.6.1 An objection dated 3 April 2020 was submitted by CMS Law on behalf of their client who has a leasehold interest in plot 15 and are the operator on this site. Land referencing carried out in advance of the making of the Order indicated that they had an interest in plot 29 as a tenant and occupier, but this is no longer the case.

15.6.2 Summary of objection

15.6.3 **The objection is made on four grounds:**

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

(2) failure to fully grasp the operations and requirements of the ready mixed concrete plant;

(3) failure to consider Planning Policy Guidance on safeguarding existing sites contrary to the advice in National Planning Policy Framework (February 2019) (“NPPF”); and

(4) prematurity

15.6.4 Council's Response

In response to ground 1:

The Council has set out its compelling case for promoting the Order at paragraphs 4, 5.12, 5.21 to 5.38 (inclusive) of this Statement of Case namely that the Scheme accords with national and local housing policy objective by delivering a quantitative housing gain whilst improving the quality and increasing the range and types of dwellings on offer. The Council has also adequately taken into account its obligations under the European Convention on Human Rights, as transposed into the Human Rights Act 1998, as described in section 13 above.

In response to ground 2:

The Council's agent, Thomas Lister made initial contact with Tarmac in 2017 to discuss the Council's regeneration plans and to understand their business requirements.

Following a request for information sent by Ardent Management Ltd on behalf of the Council on 3 April 2019, initial information about their business was received. Thomas Lister conducted a valuation exercise in June 2019, which included a site visit. In September 2019, a business intelligence exercise undertaken by Ardent Management Ltd

updated the Council's records on business requirements. The Council does not control or own any suitable land, however as part of the Council's relocation support, both Thomas Lister and Marketing Derby have been pro-active in making enquiries for potential sites within the city of Derby that suit their business needs. At the same time, Tarmac have also been pro-active in their site search.

The Council has recently met with Tarmac on 9 July 2020 when specific relocation opportunities were discussed.

In the circumstances, the Council does not accept that it does not grasp the operations and requirements of Tarmac, and indeed sites suggested by the Council are under active consideration by Tarmac.

In response to ground 3:

The NPPF does not specifically protect the secondary processing of minerals, e.g. concrete batching, but instead seeks, by way of policy, to encourage the local planning authority to consider the protection of mineral deposits and their associated workings in their development plans. The Council's local development plan allocates Castleward as a housing-led regeneration location. Further the Council's development plan protects existing deposits of minerals and the ability to work them. Having reviewed the consultation responses to development plan, there was only one representation from the objector and this related to a site elsewhere. No representations were made in connection with the site included in the Order. In the circumstances it is not considered that the proposal is in conflict with the NPPF or any other planning policy relating to minerals.

In response to ground 4:

The Castleward site has been in delivery since 2013 following the grant of outline planning permission for up to 840 new dwellings. Phase 1 was completed in 2016 comprising 164 dwellings. Phase 2a of 54 dwellings is due to complete late Autumn 2020. Phase 2b has a resolution to grant planning permission for a further 180 dwellings. Full applications for planning permission for a total of 268 dwellings on the site are pending determination. Land is in the process of being assembled by negotiation for Phase 3a; and a reserved matter application for 82 units is nearing determination. Phases beyond these cannot continue due to fragmented land ownership. The scheme is therefore not premature; it is at an advanced stage of delivery and at risk of stalling without the Order.

15.7 MIDCASTLE LIMITED

15.7.1 An objection dated 30 March 2020 was submitted by Midcastle Limited who have leasehold interests in plots 16 and 30. Midcastle Ltd comprises several businesses, Bathroom Traders Ltd, SupaPlumb, First Electrical Wholesalers Ltd and Lamp Shed.

15.7.2 Summary of objection

15.7.3 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.

15.7.4 Council's Response

15.7.5 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. These matters can be addressed by way of identification of a suitable site for relocation, and/or compensation. In terms of staff reductions, it is not clear as to why such reductions would be necessary and no explanation as to the number and whether these would be full or part-time posts has been provided.

15.7.6 At this time, due to the COVID – 19 pandemic, the business proprietor is shielding and has stated that he is unable to consider the Order or relocation of the business at this time. An offer of assistance to support with the financial impacts of the pandemic has been made by the Council. Thomas Lister, as agent for the Council, remain available for when the objector is in a position to engage on the Order and associated business relocation.

15.8 ANTHONY STUART ROSS AND DERBY AUTO ELECTRICAL SERVICES LIMITED

15.8.1 An undated letter of objection was submitted prior to the end of the objection period by Carter Jonas on behalf of Anthony Stuart Ross and the Derby Auto Electrical Services Limited business regarding their freehold, leaseholder and occupier interests at plots 13, 24, 31 and 35.

15.8.2 Summary of objection

15.8.3 **The objection is made on 3 grounds:**

- (1) The acquiring authority has made no meaningful attempts to acquire land by agreement.**
- (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'.**
- (3) Lack of appropriate engagement and excessive delays in submitting the draft order have created uncertainty over a 15 year period.**

15.8.4 Council's Response

In response to ground 1

The Council first made contact with the objector in 2017 when proposal for the Scheme were first advanced. This was followed by meetings with the objector in 2018. The objector attended an information event run by the Council in October 2019, which sought to engage with those affected by the Scheme. Thomas Lister, the Council's agent, met with Anthony Stuart Ross on 9 March 2020 whilst undertaking a site inspection of the property for the purpose of measuring the premises and to ascertain relocation appetite or desire for extinguishment. The Council has also written to the objector in March, April, June and July 2020 both repeating its offer to acquire by agreement as well as offering to agree, further to the confirmation of the Order, to allow the objector to remain in occupation to a date after March 2024. This is to give the objector, in the event the Order is confirmed, as much time as possible to relocate and provide a degree of certainty around the timing of the implementation of any confirmed Order. Further details of the steps taken to engage with objector are set out in section 7 of this Statement of Case. As such it is denied that no meaningful attempts to acquire by agreement have been made.

In response to ground 2

The Council and its agents Thomas Lister provided a 'not before date' as requested, to Selina Wakeham of Carter Jonas, the objector's agent, on 1st May 2020. This confirmed that the Council would allow the objector to remain in occupation until at least 31st March 2024, in the event the Order is confirmed. No response has been received, to date, in respect of this proposal.

In response to ground 3

Whilst it is true that proposals for the regeneration of Castleward have been planned for around fifteen years, a vision for a masterplan and procurement of development partner (and Cabinet approval) took several years, with outline planning permission granted in 2013. Following this process, Phase 1 was completed in 2016. Whilst the partnership

(the Council, Compendium Living and Homes England) possess further land in their respective ownerships within the Scheme, these sites are fragmented and of limited scale to bring forward further development phases.

Following a successful bid to Homes England Housing Infrastructure Fund, grant funding was awarded to the Council in 2017. 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 of the Scheme and the wider CUV to progress. The Council has progressed its proposals as promptly as possible as circumstances have allowed.

Engagement with the individual objector has been appropriate, as described in response to ground 1 above.

15.9 FREDERICK CHARLES WILLIAM HAWKINS, JANE CHRISTINE HAWKINS, HAWKINS AND SHEPHERD LIMITED

15.9.1 An undated objection was submitted by Carter Jonas prior to the end of the objection period on behalf of their clients Hawkins and Hawkins and Hawkins and Shepherd Limited, who have a leasehold interest in plot 8. Charles and Jane Hawkins, through their agent, submitted a Blight Notice dated 20 May 2020. The notice has been deemed to have been accepted by the Council.

15.9.2 Summary of objection

15.9.3 **The objection is made on 3 grounds:**

(1) The acquiring authority has made no meaningful attempt to acquire land by agreement.

(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.

15.9.4 Council's Response

15.9.5 Further to the objectors submitting their objection to the Secretary of State opposing the confirmation of the Order they have now submitted a Blight Notice in accordance with the Town and Country Planning Act 1990 requiring the Council purchase their interest in the land the subject of the Order. The Council have notified the objectors that they accept the Blight Notice. The Council is unclear, therefore, whether the objection remains valid

as it has not been withdrawn. The following response is provided on the basis that the objection is sustained.

In response to ground 1

Contact was made with the objectors in 2017 to commence negotiations on the acquisition of their property. A meeting was held in April 2019, followed by a further meeting in September 2019. The objectors attended an information event held by the Council in October 2019. Letters were sent by the Council in March, April, June and July seeking to engage with the objectors for the purposes of negotiating the acquisition of their property. The Council last wrote to the objectors on 5 June 2020.

Following the submission of the Blight Notice in 20 May 2020 and its acceptance by the Council two months later, the Council is now deemed to have served a notice to treat and as such will be acquiring the property by that means.

In response to ground 2

Thomas Lister proposed a 'not before date' of 30 September 2021 by letter to Selina Wakeham of Carter Jonas on 1st May 2020. This confirmed that the Council, following confirmation of the Order, would allow the objector to remain in occupation until at least 30 September 2021. No response has been received to date in connection with this proposal, although it is noted that the Blight Notice has since been served and has been deemed to have been accepted.

In response to ground 3

Thomas Lister and representatives of the Council have met/engaged with the objectors on numerous occasions (see Section 7 of this Statement of Case and ground 1 above), including provision of CoStar reports for relocation opportunities.

Whilst it is true that proposals for the regeneration of Castleward have been planned for around fifteen years, a vision for a masterplan and procurement of development partner (and Cabinet approval) took several years, with outline planning permission granted in 2013. Following this process, Phase 1 was completed in 2016. Whilst the partnership (the Council, Compendium Living and Homes England) possess further land in their respective ownerships within the Scheme, these sites are fragmented and of limited scale to bring forward further development phases.

Following a successful bid to Homes England Housing Infrastructure Fund, grant funding was awarded to the Council in 2017. 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 of the Scheme and the wider CUV to progress. The

Council has progressed its proposals as promptly as possible as circumstances have allowed.

16 CONCLUSIONS

- 16.1 The Council considers that there is a compelling case in the public interest for making the Order. 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 development, 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.
- 16.2 The uses proposed by the Scheme accord with national policy guidelines and local policy objectives. The adopted Local Plan has a specific policy for Castleward, which advocates the use of compulsory purchase powers if required, stating:
- “The Council will work with partners to ensure that regeneration of the Eastern Fringes is delivered in a comprehensive manner and will use compulsory purchase powers if necessary, to ensure delivery.”*
- 16.3 The Council has entered into a development agreement with a development partner to ensure delivery of new homes. The Council, with its partners Homes England and Compendium Living, already owns or controls a substantial part of the Order Land. Further, the Council has secured significant capital grant from Homes England through the HIF to enable land assembly.
- 16.4 The Council is satisfied that there is a compelling case in the public interest for compulsory purchase powers to be sought to secure the delivery of the Scheme. The Council has made the Order and asks the Secretary of State to confirm the Order.

17 LEGAL STATUS OF THIS STATEMENT OF CASE

- 17.1 This Statement of Case is a statement under Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007. The Council reserves the right to alter or expand it as necessary.

18 CONTACTS FOR FURTHER INFORMATION AND NEGOTIATION

- 18.1 Owners and occupiers of property affected by the Scheme should contact:
- Matt Wilson, Regeneration & Major Projects team, Communities and Place Directorate,
The Council House, Corporation Street, Derby DE1 2FS
- Email: matthew.wilson@derby.gov.uk
- Tel: 01332 641589 Mobile: 07812 301650 Minicom: 01332 640666
- 18.2 Owners and occupiers of property affected by the Scheme who wish to negotiate or discuss matters of compensation should contact:
- Rachel Lister, Thomas Lister Limited, 11 The Courtyard, Buntsford Gate, Bromsgrove, B60 3DJ

Email: rachel.lister@thomaslister.com

Tel: 01527 889221 Mobile: 07811 408788

The Council has been advised by the Planning Inspectorate that due to the Covid-19 pandemic, electronic copies of the Statement of Case will be sent to each objector, otherwise shown at www.derby.gov.uk/castleward.

19 LIST OF DOCUMENTS

19.1 In the event of a public inquiry the Council intends to refer or to put in evidence the following documents:

19.2 All of the documents listed are available to view on line at the website addresses shown. If extracts of the relevant documents listed are required then hard copies of the relevant extracts can be provide on request my contacting:

19.3 Matt Wilson, Regeneration & Major Projects team,

Communities and Place Directorate

The Council House,

Corporation Street,

Derby DE1 2FS

Email: matthew.wilson@derby.gov.uk

Tel: 01332 641589 Mobile: 07812 301650 Minicom: 01332 640666

	Document	Date	Relevant sections
1	Compulsory Purchase Order and Supporting Policy		
	Derby City Council (Castleward) Compulsory Purchase Order 2020 https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/regenerationframework/castleward-cpo-2020.pdf The Order Land https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/regenerationframework/dcc-castleward-cpo-order-map.pdf	March 2020	
	Guidance on compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion. https://assets.publishing.service.gov.uk/government/uploads/s	July 2019	

	Document	Date	Relevant sections
	ystem/uploads/attachment_data/file/817392/CPO_guidance_-_with_2019_update.pdf		
2	Planning Policy and other relevant policy		
	National Planning Policy Framework https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779764/NPPF_Feb_2019_web.pdf	February 2019	<i>paragraph 72</i> <i>paragraph 123</i> <i>paragraph 119</i>
	Housing Delivery Test Management Rule Book https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728523/HDT_Measurement_Rule_Book.pdf	July 2018	
	Local Plan – adopted Derby City Local Plan Part 1 (DCLP1) and Saved Policies of the City of Derby Local Plan Review (CDLPR) https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy_ADOPTED_DEC%202016_V3_WEB.pdf Policy AC1 – City Centre Strategy – City living agenda – Housing Zone. Minimum of 2,200 homes should be delivered in the City Centre by 2028 Policy AC6 – Specific policy requirements for the regeneration and delivery of the site. Includes commitment to use CPO powers if required to ensure delivery. Policy CP 7 – Affordable and specialist Housing	January 2017 January 2017 January 2017	<i>AC1 (Page 77 - 78)</i> <i>AC2 (Page 79 – 83)</i> <i>CP7 – (Page 32 – 33)</i>
	Eastern Fringes Area Action Plan – Status and process https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/reports/localdevelopmentframework/EB047-CCEastern_Fringes_Area_Action_Plan.pdf	July 2008	
3	Other Derby City Council Background Documents		
	Castleward listing within Strategic Housing Land Availability Assessment (“SHLAA”) (update) http://docs.derby.gov.uk/padocumentserver/SHELAA.aspx?DocID=DER0089	April 2018	
	Council’s Urban Renewal Strategy 2016 https://www.derby.gov.uk/media/derbycitycouncil/contentassets	Spring 2016	

	Document	Date	Relevant sections
	ts/documents/councilanddemocracy/DCC-Urban-Renewal-Strategy-2016.pdf		
	Derby City Centre Masterplan 2030 https://www.derby.gov.uk/media/alluncategorised/2016.08.16_MasterplanFinalApproved.pdf	July 2016	
	Private Sector Housing Stock Condition Survey Yet to be published	Forthcoming	
4	Planning Permission		
	Outline Planning Permission (reference 05/12/00563) for demolition of existing buildings; development comprising up to 840 dwellings together with associated public open space, roads, school, community facilities and commercial premises https://eplanning.derby.gov.uk/online-applications/applicationDetails.do?keyVal=ZZZZQQFSXE974&activeTab=summary	February 2013	
	Castleward Master Plan https://www.castleward.co.uk/about-castleward/development-masterplan		
	Pre-application Statement of Community Involvement https://docs.derby.gov.uk/padocumentserver/DownloadDocument.aspx?docid=9095570	March 2012	
5	Legislation (relevant extracts)		
	Housing Act 1985 https://www.legislation.gov.uk/ukpga/1985/68/section/17		section 17
	Section 16 - Local Government (Miscellaneous Provisions) Act 1976 https://www.legislation.gov.uk/ukpga/1976/57/section/16		section 16
	The Acquisition of Land Act 1981 https://www.legislation.gov.uk/ukpga/1981/67/contents		All
	Compulsory Purchase (Inquiries Procedure) Rules 2007 https://www.legislation.gov.uk/uksi/2007/3617/contents/made		All

The Council may also refer to other documents in order to address any objections made to the Order.

APPENDIX A – DRAFT INDICATIVE DEVELOPMENT PLAN

