

**CABINET
12 JANUARY 2021**

**PROPOSED DARLINGTON BOROUGH COUNCIL
(DARLINGTON STATION GATEWAY)
COMPULSORY PURCHASE ORDER**

**Responsible Cabinet Member -
Councillor Alan Marshall, Economy Portfolio**

**Responsible Director -
Ian Williams, Director of Economic Growth and Neighbourhood Services**

SUMMARY REPORT

Purpose of the Report

1. The purpose of this report is to seek the Cabinet's authority to make and pursue the confirmation of a Compulsory Purchase Order (CPO) to facilitate the acquisition of land immediately to the east and west of Darlington Station, under section 226(1)(a) of the Town and Country Planning Act 1990.
2. The acquisition of the land in question (the "Order Land") is necessary to allow the Council to create a multi-storey car-park, multi model transport interchanges and new public realm; the development referred to in this report as 'the Gateway' or 'the Scheme'.

Summary

3. The Gateway is a strategic project which aims to transform the access to and function of an expanded mainline station by developing land immediately to the east and west of the existing station. This will be achieved through:
 - (a) The creation and integration of a multi-modal interchange and new multi-storey car park,
 - (b) The promotion of sustainable travel through priority enhancements for pedestrians and cyclists,
 - (c) The creation of gateway approaches and public realm that reflect the economic ambitions of Darlington and the wider Tees Valley region.
4. The Scheme and supporting land assembly strategy, endorsed by Cabinet in February 2020, will deliver transport and regeneration improvements that build on wider regeneration initiatives in the area to better connect the station with the Town Centre and Central Park Enterprise Zone. The land assembly strategy promotes acquisition by agreement with a CPO to secure the delivery of the scheme.

5. Delegations are sought to ensure officers can take all necessary procedural steps in accordance with statutory requirements to promote or support the promotion of confirmation of the CPO and once confirmed exercise the power given by either service of Notice to Treat or General Vesting Declarations for the Order Land. Acquisitions by agreement will still be pursued as per standard Council practice and in line with delegations in the February 2020 report.
6. The Order Land is shown shaded pink on the plan attached at **Addendum 1.1**.
7. Section 226(1)(a) of the Town and Country Planning Act 1990 empowers the Council, on being authorised by the Secretary of State, to acquire compulsorily, land in its area where it can demonstrate that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land. The Council must not use this power unless it also shows that the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objects:
 - (a) the promotion or improvement of the economic well-being of the Council's area;
 - (b) the promotion or improvement of the social well-being of the Council's area;
and
 - (c) the promotion or improvement of the environmental well-being of the Council's area.
8. The overriding purpose of the acquisition of the Order Land is the facilitation of the Scheme, which will bring significant improvements to the social and economic well-being of the Borough, with some environmental benefits. The necessity of acquiring the Order Land is therefore demonstrated and use of the section 226(1)(a) power is considered appropriate. The range of social and environmental benefits is considered in the Statement of Reasons attached at **Addendum 2**.
9. With £25m of funding approved and part committed and a scheme in line with national and local planning policy it is considered that the greatest impediment to delivery is acquisition of land interests. Due to the number of interests to be acquired in the Order Land it is highly unlikely these could all be acquired by agreement; therefore, there are no realistic alternatives to the compulsory acquisition of the Order Land. However, the Council will continue to work with owners to secure acquisition by agreement.
10. To the extent that the Order would affect the human rights of those with an interest in the property, the officers' view is that interference with those rights is prescribed by law (S.226(1) (a) of the Town and Country Planning Act 1990); is pursuant to a legitimate aim; is necessary in a democratic society and, given the likely benefits of the Scheme, is proportional to the proposed outcome.
11. In the officers' view, there is therefore a compelling case in the public interest sufficient to justify the making of the Order for the acquisition of the Order Land to facilitate the Scheme.

Recommendation

12. It is recommended that :-

- (a) The Council makes a Compulsory Purchase Order ("CPO") under the powers conferred by Section 226 (1) (a) of the Town and Country Planning Act 1990 to acquire all land to the east and west of Darlington Station as shown on the Order Map (the "Order Land") attached at Addendum 1.1, the interests in which are described in the Schedule of Interests, attached at **Addendum 1.2 Part III**.
- (b) The Assistant Director - Law & Governance be authorised to make the CPO for the Order Land, and to take all necessary procedural steps prior to and after the making of the CPO, to enable the CPO to be submitted to the Secretary of State for confirmation including:
 - (i) Finalising the attached Statement of Reasons, at Addendum 2;
 - (ii) Finalising (including making amendments to) the Order Schedule and/or the Order Map, provided that any increase in the extent of the Order Land so amended shall be less than a substantial change to the Order taken as a whole; and in the case of some plots provided that if considered appropriate rights and/or temporary possession may be required as an alternative to acquisition.
 - (iii) Serving notices of the making of the CPO on all persons entitled to such notice and placing all necessary notices in the press and on/around the Order Land;
 - (iv) To submit the CPO to the Secretary of State for confirmation as soon as possible following the making of the CPO;
 - (v) Where there are no objections, to confirm the CPO by the Council if authorised to do so by the Secretary of State;
 - (vi) Where the CPO is confirmed by the Secretary of State to publicise such confirmation and serve all necessary notices of the confirmation.
- (c) When the CPO becomes operative, the Assistant Director – Law & Governance, is hereby authorised to execute one or more General Vesting Declarations under the Compulsory Purchase (Vesting Declarations) Act 1981, or, as the case may be, to acquire interests pursuant to the Notice to Treat procedure, and to serve all necessary documents and notices as required after as well as before the vesting or acquisition of the Order Land in/by the Council (including, in either instance, related to the payment of appropriate compensation).
- (d) That the Director of Economic Growth & Neighbourhood Services, in consultation with the Assistant Director - Law & Governance be authorised to manage the compulsory purchase process in accordance with all statutory requirements and to otherwise promote and/or support the promotion of confirmation of the CPO including the preparation of and giving of evidence at any public inquiry, hearing or for determination on written representations, and

the costs of any inspector, appearances, advocacy and advice relating thereto.

- (e) The Director of Economic Growth & Neighbourhood Services be authorised to take all necessary steps to negotiate agreements with land owners and owners of affected interests, and terms for the withdrawal of objections (including representations of statutory undertakers) to the compulsory purchase order including where appropriate, seeking exclusion of land from the compulsory purchase order and to agree, contest and pay claims for compensation of any kind as appropriate, (terms agreed to be reported for information on the Schedule of Transactions).
- (f) The Assistant Director – Law & Governance, in consultation with the Director of Economic Growth & Neighbourhood Services be authorised to grant alternative rights or regrant extinguished rights in respect of land acquired from statutory undertakers and Network Rail in or over the Order Land as he deems necessary to secure confirmation of the CPO or the perfecting of title at any time to land within the CPO; and in relation to rights of persons other than statutory undertakers the Directors acting as above be authorised where necessary to prevent extinguishment by:
 - (i) making a Direction under section 236(3) of the Town & Country Planning Act 1990; and/or
 - (ii) entering into an agreement with affected parties, with or without TVCA, as appropriate.
- (g) The Director of Economic Growth & Neighbourhood Services is authorised in relation to the Scheme to promote, confirm, make operational and secure all reasonably required dedications, closures (temporary or permanent), stopping-ups, diversions, re-arrangements, improvements, variations, creations or extinguishments, whether by order, direction, notice, declaration, grant, or agreement, of highways, car parks, bus-stops, taxi ranks, parking/loading bays, private means of access, streets, bridges, tunnels, walkways, footways, routes for cycles and roads (including signs, markings, apparatus and structures related thereto) under the provisions of the Highways Act 1980, The Road Traffic Regulation Act 1984, parts IX and X of the Town and Country Planning Act 1990, the New Roads and Street Works Act 1991, the Transport Act 2000, and/or the Traffic Management Act 2004, or any order regulations or rules made pursuant to any of those Acts.
- (h) The Assistant Director - Law & Governance be authorised to sign and serve any notices or documents necessary to give effect to these recommendations and to take all the other actions necessary to give effect to these recommendations.
- (i) In the event that structural changes alter titles or responsibilities, the Head of Paid Service is authorised to vary the delegations to the most appropriate postholder.

Reasons

13. The recommendations are supported by the following reasons:-

- (a) The acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land and will bring economic, social and environmental benefits to the Borough, as well as to the Tees Valley Region.
- (b) The Scheme has a high likelihood of being delivered if the Order Land can be acquired. Implementation of the Scheme and realising the benefits of the Scheme are dependent on acquiring the Order Land. The Council has no other way of acquiring good title to all of the interests in the land required for the Scheme in a reasonable timeframe.
- (c) There are no reasons in principle why planning permission cannot be granted, and there is a significant funding approval for the Gateway from TVCA. The Department for Transport has committed significant development funding and established the wider scheme on the Department's Rail Network Enhancements Pipeline. Bearing these factors and the need for the Gateway in the context of the wider Scheme, there is a clear and compelling case in the public interest to acquire the Order Land.

Ian Williams

Director of Economic Growth and Neighbourhood Services

Background Papers

Darlington Station & Growth Zone, 04 February 2020 (Cabinet granted authority to start CPO preparation)

National Planning Policy Framework, DCHLG 2018

Guidance on Compulsory Purchase and the Criche Down Rules, DCHLG 2018

Julia McCabe : Extension 5903

S17 Crime and Disorder	There are no implications for crime and disorder in connection with this report.
Health and Well Being	The vision for Darlington Station is to improve the approach and ease of use of the station for all users and to create an attractive setting with benefits for all.
Carbon Impact and Climate Change	The design will take into consideration the carbon impact of the development.
Diversity	<p>An EIA screening exercise for the CPO determined there will be no significant adverse impact on any people with protected characteristics.</p> <p>The scheme design will be subject to Built Environment Access Panel approvals via Network Rail. The statutory planning process will also require a design and access statement and consultation with local disabilities groups. This work is currently ongoing.</p>
Wards Affected	Bank Top & Lascelles and Park East.
Groups Affected	Owners of property in the order land
Budget and Policy Framework	This decision does not represent a change to the budget and policy framework.
Key Decision	This is considered a key decision as the scheme impacts on users and residents from across the Borough.
Urgent Decision	This is not an urgent decision.
One Darlington: Perfectly Placed	The improvements to the station gateway will make a significant contribution to the Perfectly Placed priority by supporting a Place designed to thrive.
Efficiency	The CPO process ensures the delivery of the scheme in a reasonable and controllable timeframe and value for money.
Impact on Looked After Children and Care Leavers	No impact.

MAIN REPORT

Structure of Report and Background

14. This Report sets out summary details of relevant background, the proposed Scheme, the case for compulsory purchase including analysis of risk, legal and other considerations in support of recommendations made and outlined. Further detail of relevant background, the proposed Scheme and the case of compulsory purchase is set out in detail in the Statement of Reasons, attached at Addendum 2.
15. The site of the Scheme (the "Site") is in fragmented ownership and does not reflect the desired aspiration of a rail gateway fit for the 21st Century. Over a period of time, some interests in the Site have been assembled by private treaty with a number of plots now under the control of the Council and TVCA. The majority of plots in the site remain in third party ownership which hinders the comprehensive redevelopment of the Site. In February 2020 Cabinet endorsed the land assembly strategy which promotes a comprehensive approach to site acquisition, underpinned by Compulsory Purchase Powers to complete the Scheme in time for the 2025 Bicentenary celebrations.

Station Gateway

16. The Station Gateway (the "Scheme") will bring about transformational change that accords with the strategic policy aims and objectives of the Council. The Scheme and its benefits are more fully described in the Statement of Reasons and are summarised below.
17. The Neasham Road (East) Gateway:
 - (a) A new Multi-Storey car park (MSCP) to provide additional parking capacity to meet an anticipated growth in rail passenger number; to cater for the loss of parking in other parts of the station; and as enabling work to facilitate the land (existing car parking) being made available for the new station building.
 - (b) Extending from the first 1.5 storeys of the west side and north west corner of the MSCP structure, construct a 'station shell' scaled as adequate for a new station to serve two bay platforms and a through line platform to meet future local and national rail enhancements.
 - (c) Creation of a multi-modal interchange with high quality public realm that links to enhanced highways and an improved connection to Central Park.
 - (d) Drop off and pick up facilities.
 - (e) Improved Pedestrian and Cycling facilities benefiting from links to Central Park and the Town Centre.
18. The Victoria Road (West) Gateway will consist of:
 - (a) The re-alignment of the highway and creation of a multi-modal interchange with high quality public realm that links and enhances the connection to Town Centre.

- (b) Improved pedestrian and cycling facilities made possible by a Network Rail & LNER commitment to remove all motorised vehicle traffic and parking within the portico to create a safer pedestrian environment.
 - (c) Better bus interchange facilities.
 - (d) New drop-off and pick-up facilities.
19. Both Gateways will require the acquisition of land, the Site shown as the pink shaded area on the order land plan (Addendum 1.1) and covered later in the report in the Land Ownership and Private Treaty Negotiations/Acquisitions section.

Milestones

20. As both Gateways are reliant on land acquisition site clearance and construction are constrained to the CPO timescales. A typical CPO process timeline is attached at **Addendum 3**.

Detailed design	December 2020 – April/May 2021
Planning application submissions	May/June 2021
Confirmation of CPO Process of acquisition and clearance of order land started	March 2022
Start construction	December 2022
Complete Construction	March 2024

Site context

21. The Station Gateway Scheme described above do stand as independent improvements that are necessary in their own right. However, it is useful to understand how the Gateway scheme complements and adds value to the wider programme of works at the Station and in the surrounding environment.

Station Enhancements & Operational Rail

22. Following approval of the outline business case prepared by TVCA in February 2020, Network Rail were awarded an initial £8.4m by the Department of Transport to design:
- (a) New Platforms that will serve the Tees Valley line and the associated rail connections that will enable increased capacity for local services.
 - (b) Enhancements within the existing train station.
 - (c) Bridge and access facilities from the new station building within the MSCP to the Portico improving access for all, including enhancements to the existing subway.

- (d) The fit out of the station shell within the lower levels of the MSCP structure.
 - (e) Rationalisation of the parking arrangements.
 - (f) Maintain provision and enabling works for new national rail and platforms in a future phase.
23. The new station building construction was previously included with the rail industry led scheme. Through design development the constraints on the overall site meant that the two functions (MSCP and station), originally envisaged as two separate structures with the potential to be linked in the future, needed to be incorporated within one structure.
24. To avoid complex technical interfaces the MSCP and station shell will be designed and constructed as one scheme leaving a sterile zone for future rail industry led works, all within Network Rail owned land and buildings.
25. The station shell design and construction costs will be included within the TVCA/DBC funding agreement for the scheme. This is covered in paragraph 59 to 64, Financial Implications, and the Statement of Reasons (Addendum 2).
26. The Network Rail scheme is progressing through the National Rail Network Enhancement Pipeline (RNEP) gateway process in line with the following timescales:

Single option development	July 2020 - March 2021
Decision to deliver from DfT	September 2021
Complete Design	June 2022
Complete Construction	May 2024
New track & station operational	December 2024

27. The key partners delivering all elements of the proposed development (Station Gateway and Station Enhancements & Operation Rail) operate under a joint governance structure that ensures strong partnership working is in place to deliver the project outcomes.

Cattle Market Site

28. Darlington Farmers Auction Mart moved to their new facility at Humbleton Park at the end of September 2020 and the site was handed over directly to the demolition contractor (Thompsons of Prudhoe). Demolition was completed on 18th December and the site remains secured by timber hoarding and covered by the DBC Town Centre CCTV system which is monitored and images recorded 24/7.
29. Cabinet committed in February 2020 to maintain the area in the short to medium term as temporary parking for those car parking places displaced by the construction of the Station Gateway scheme.

30. A Masterplan has been commissioned for the site and community engagement will follow when some high level options are scoped and can be presented for discussion. The early masterplan work requires some site surveys to be done which can only happen when site demolition is completed.

Victoria Road Improvements

31. The Rethinking Victoria Road project, funded by a grant from TVCA's Sustainable Access to Employment Fund and the Council's local transport budget, is part of a wider aim to regenerate the areas around the station ahead of the planned Station Gateway and wider station improvements scheme.
32. Due to complete early in 2021 the Victoria Road scheme will see the layout of Victoria Road, between St Cuthbert's Way and Hargreave Terrace changed to create more space for pedestrians as well as facilities for cyclists. Traffic lights at the junction of Clifton Road and a 20mph speed limit will also be introduced.
33. Alongside similar safety enhancements the same palette of materials and detailing is proposed for the Victoria Road (West) Gateway proposals which will complete the route to the station portico frontage and its comprehensive improvement.

Towns Fund

34. In September 2019 Darlington was one of 100 places in the UK invited to develop proposals for the £3.6bn Towns Fund. At the end of October 2020 Darlington was successful in being allocated a Town Deal of £22.3m, one of the first 7 places in the Country to achieve this, with Heads of Terms being agreed with Government soon after.
35. This now progresses the Towns Fund programme into the next stage of project development, taking forward our ambitions laid out within the Town Investment Plan, to develop the programme of project interventions which will enhance and improve the gateway from Bank Top station, into and through the town centre, and up the North Road gateway. These works will complement and support the 2025 bi-centenary rail celebrations and support the Council's strategy of diversification and consolidation of activities within Darlington Town Centre. The programme will build on our excellent transport connectivity to encourage more people into the town and new businesses to locate in Darlington to strengthen and support the town economy.

Connecting Central Park

36. Central Park is recognised as Darlington's "Enterprise Zone", attracting new businesses and supporting a growing Education Campus linked to the East side of the Station Gateway Site via Parkgate cycle/pedestrian bridge. Good rail connectivity is critical to developing both business and education facilities. Darlington station provides excellent national connectivity and improving access to the station is key to attracting more inward investment.
37. Already home to Teesside University's Centre for Professional and Executive Development and the new Horizons centre, Darlington College, Business Central with around 47 companies housed, and the National Biologics Manufacturing

Centre; the planned completion of the final infrastructure will see up to ten further plots enabled and actively marketed for development.

38. In April this year Cabinet authorised £500k of development funding, secured from TVCA, to be invested in the development of a Hybrid Business Innovation Centre: a business incubator comprising offices and clean works spaces.
39. The design of the new Hybrid Business Innovation Centre is ongoing and approval is sought in a separate report to confirm its design and construction; and to procure an operator.
40. The MSCP is designed to meet forecast increases in rail passenger demand over the next 25 years. It is an aspiration that this built-in capacity could be utilised by Central Park visitors in the short term given its proximity and connection to the Station which has been improved by a new pedestrian/cycle bridge.

Approach to Bringing Forward the Scheme/ Land Assembly Strategy

41. The site of the Scheme (“the Site”) is in fragmented ownership and despite some interests in the site being assembled by private treaty over a period of time, the majority of plots in the site remain in third party ownership hindering the comprehensive redevelopment of the Site. In February 2020 Cabinet endorsed the land assembly strategy which promotes a comprehensive approach to site acquisition with acquisition by Private Treaty (by agreement) underpinned by Compulsory Purchase Powers.

Land Ownership and Private Treaty Negotiations/Acquisitions

42. In late January 2020, as the previous cabinet report was published, the Council wrote to all potentially affected landowners and occupiers. It was explained that approval was being sought to begin preparations for the CPO and land owners were encouraged to contact DBC Estates to begin negotiations. This initiated some contact. Further correspondence and telephone contact by the Council’s specialist land referencing contractor, detailed in paragraph 56 below, prompted further engagement with the Council.
43. In February 2020 Cabinet authorised the Council to enter into a Funding Agreement (the “Agreement”) with TVCA. In line with the Agreement, acquisitions are made in joint names (TVCA & DBC) with TVCA funds.
44. **Addendum 4** (Acquisition by Agreement Table) details the land interests by ownership type and the progress made towards acquisition by agreement.

Third Party Owned Land

45. All owners and tenants have been advised in writing that the scheme budget will fund their reasonable legal costs in acquiring their interest by agreement in line with the agreed DBC fee policy (updated March 2020).
46. Upon contact with Estates, potentially affected land owners were advised, as a first step, to engage independent legal advice or agents to represent their interests. Where accommodated by the property owner an Estates Officer has inspected the property and prepared an offer to the owner via their legal advisor/agent.

47. Sanderson Weatherall have been appointed to lead the negotiations on five specialist acquisitions, two of which now have agreed Heads of Terms and are progressing to completion in early 2021.
48. Council officers are actively pursuing negotiations for the acquisition of all outstanding interests. Notwithstanding this, due to the number of interests that remain to be acquired and parties resistance to negotiation several objections are expected.

Network Rail Land - LNER lease

49. Network Rail and LNER are key partners in the overall Station Improvements project with Network Rail the responsible body for the proposed operational rail and existing station enhancements.
50. The Scheme Site includes land on the east and west sides of the station which form the 'operational land' of Network Rail; a relevant statutory undertaker for the purposes of the Acquisition of Land Act 1981. LNER are the Station Operator and hold a 99 year lease over all the Network Rail land within the Scheme Site.
51. It is standard practice regarding CPOs and Rail land that holding objections will be issued by Network Rail and LNER to protect their position in the period between the CPO being made and an agreement being reached with the Council and TVCA for their land. At this point, providing agreement has been reached, the Council, as Acquiring Authority, will agree not to enforce the CPO against either party and their objections will be withdrawn.
52. Progress is being made on these negotiations with an agreement in principle by all parties with regard to the purchase of land and to the ownership and management model of the MSCP and station. Reference to all objections needs to be made in the Statement of Case which is expected to require finalisation by early June 2021 in advance of an expected public inquiry in September. Therefore agreements with Network Rail and LNER need to be in place by the end of May 2021 to allow sufficient time for objections to be withdrawn. All parties are confident that timescale can be achieved.

Statutory Undertakers (Utilities)

53. The General Table, table 2 within Addendum 1.2 Schedule of Interests (Part III), is a list of Statutory Undertakers known to operate in the area of the Order Land, but the existence and location of any rights over the land is currently uncertain. These rights will be dealt with by offering the statutory undertaker in question a licence over publicly dedicated land or a specific grant where alternative rights need to be granted over land not dedicated to public use such as the MSCP. The ownership model accepted in principle is that the MSCP land will be held by public bodies (Network Rail) as private land. Any standard objections are expected to be withdrawn prior to the Statement of Case being finalised.

Highway

54. The majority of the highway improvements affecting the existing highway will be subject to agreement under section 278 of the Highways Act 1980, and will be designed and constructed to meet with the requirements of the Local Highway Authority (the Authority). Highways and access are covered in detail in the Statement of Reasons, Addendum 2, and appropriate delegations sought in this report for the Director of Economic Growth and Neighbourhood Services to make the required legal orders and agreements.

Preparation Of The CPO

55. Extensive referencing work has been undertaken to ascertain ownership and interests in the order land required to deliver the scheme.
56. Following Cabinet approval in February 2020, TerraQuest, a specialist land referencing company, were commissioned to carry out detailed land referencing and the preparation of the CPO schedule (the Schedule) and the Order Map (the Map). To gather this information TerraQuest contacted all parties with a land interest in the Site requesting completion of a Land Interest Questionnaire (LIQ) seeking comprehensive information of all interests relating to the land in question.
57. The LIQ is usually sent out under a section 16 notice (section 16(1) of the Local Government (Miscellaneous Provisions) Act 1976) making it statutory to complete and requiring it to be returned within 15 days. Aware of the sensitive nature of property negotiations/CPO and the re-prioritisation of Council Business and stresses of Covid-19 on residents and local businesses a review of this work was undertaken. It was agreed that the section 16 notice was to be removed and therefore returns were on a voluntary basis (Covid-19 Decision notice 200327 Darlington Station Land Assembly).
58. To complement this approach, once the first national lockdown ended and many businesses reopened, a reminder letter was sent and telephone follow-ups carried out. That information is highly unlikely to require amendments to the Schedule. Where such instances may arise, provisions have been made in delegations to allow minor amendments to the schedule and this does not affect the validity of the schedule presented to Cabinet.

Financial Implications

59. Funding for the Gateway (£25m) was agreed by TVCA Cabinet in November 2018, and later confirmed as part of the agreement to the Tees Valley Investment Plan in January 2019, subject to successful business case sign-off in accordance with the TVCA assurance framework.
60. In February 2020 Cabinet gave approval for the Council to enter into a Funding Agreement (the "Agreement") with TVCA and authorised the release of up to £25m of TVCA funds. The funding has already been applied by the Authority to develop the Scheme to this point. Authorisation was also given to the Director of Economic Growth & Neighbourhood Services, after consultation with the Assistant Director - Law & Governance, to agree to enter into any appropriate contractual extensions or variations relating to the Agreement.

61. This is a complex project being developed in partnership between Darlington Borough Council, TVCA, Network Rail, train operators and the Department for Transport. The project costs are developing as more detailed work is progressed on both the Gateway and funding allocated from the Department for Transport.
62. As the project has developed elements of the project and the scope are changing to ensure the best solution can be delivered within the constraints and requirements identified by all parties. The scope of the Gateway has changed to include some of the main rail station elements and as such partners are refining the project budget for finalisation through the Department for Transport's Rail Enhancement Pipeline process. It is anticipated the costs associated with any changes will be reflected in an amended funding agreement with TVCA and a further Cabinet report will come forward to release the confirmed funds.

Legal Implications

63. The acquisition of land compulsorily is a well-established practice, consisting of a suite of prescribed procedures. However, the process has several in-built uncertainties, the two most significant of which are (i) that those affected by the process may object; and (ii) that the compensation payable to those with land interests, though assessable in basic terms, may be affected by matters known only to the person in question. These uncertainties can make the process more drawn out than is ideal, and also more costly than first anticipated.
64. The procedure has been and will continue to be pursued by officers in a way than seeks to minimise these uncertainties and the attendant risk.
65. Significant legal aspects of the case for making the Order are covered in the Statement of Reasons. Foremost amongst these is the human rights of the persons who will be affected by the Order when weighed against the need for the Scheme. The conclusion as set-out in the Statement of Reasons is that specific human rights are affected but that the interference with these rights is permissible in this case.
66. A potential concern for the Council is the cost of pursuing the case for confirmation by way of a local inquiry. Such an inquiry can be more expensive than often appreciated, as the Council must meet its own costs (including advocates costs and witnesses), the costs of the inquiry/inspector, and, where a person is successful in their objection, the legal and witness costs of that person, and will be payable even if the Order fails to be confirmed. However, these costs are anticipated and covered by the funding agreement made between TVCA and the Council.

Procurement Advice

67. In February 2020 Cabinet designated the scheme in its entirety as Strategic for the purposes of Procurement. Further reports to members will be made to Cabinet as part of the annual Procurement Plan.
68. Subject to the approvals in this report the Director of Economic Growth and Neighbourhood Services will authorise the additional funding to the acquisitions and / or procurement of goods / works and services in accordance with the Contract Procedure Rules.

Consultation

69. The Masterplan for the Station Improvement Project was presented for public consultation in March 2017. Councillors were briefed on 15th March 2017. A press release and letter drop to local residents and businesses advising of a public consultation event in the Dolphin Centre were also issued. The feedback was broadly positive, with some specific issues raised and the development of the design has responded to the comments received where possible. A further consultation exercise for the Scheme (east and west gateways) is planned for early in the New Year.
70. Residents and businesses directly affected by the proposed CPO have been kept informed throughout and since January 2020 have had the contact details of Council officers who can be contacted for advice or assistance.

Equalities considerations

71. The Authority has considered in making the Order its duty, as a public authority, under 149 of the Equality Act 2010 ('the public sector equality duty'), in the exercise of all its functions, to have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act;
 - (b) advance equality of opportunity between persons who share a "relevant protected characteristic" and persons who do not share it; and
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
72. Having considered the Order and the Scheme in relation to the public sector duty, the Authority considers that the Order Land, if acquired, will facilitate safer and easier access to Station Gateway for all persons for a range of users, on foot, of whatever ability, and/or with bicycles, or motor vehicles. Once delivered, the Scheme will facilitate accessibility to the public transport network, especially the rail network, for those people without access to cars, or who are mobility impaired. The Scheme and the making of the Order are therefore expected to have a positive impact in terms of the Authority's equalities obligations, with no adverse equalities impacts being foreseen.
73. The Authority is also fully aware of its equalities duties during the compulsory purchase process, for example with regard to access to documents, premises, and informal advice. Copies of this Statement, the Order, the Order map, notices, and other documentation as and when it is publicised, will be available for consultation on the Authority's website and (depending on Covid-19 regulations and guidance) in hard copy by post or at the Town Hall reception in Darlington.
74. The Authority has given consideration to whether a full Equality Analysis is advisable in relation to the impact of the making of the CPO on protected groups, and considers this is unnecessary. (The position will be monitored and reviewed as necessary during the compulsory purchase process.)

75. Having regard to its duty under section 149 of the Equality Act 2010, the Authority believes therefore that there is in the public interest a compelling and sufficient case for making of the Order.