

**THE DARLINGTON BOROUGH COUNCIL  
(DARLINGTON STATION GATEWAY) COMPULSORY PURCHASE  
ORDER 2021**

TOWN AND COUNTRY PLANNING ACT 1990  
ACQUISITION OF LAND ACT 1981

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**STATEMENT OF CASE**

of

The Acquiring Authority

Pursuant to Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007

**October 2021**

PINS Ref: APP/PCU/CPOP/N1350/3271399

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### APPENDIX - List of Supporting Documents (SD1 – SD45)

## 1. Introduction

1.1.1 Darlington Borough Council (“the acquiring authority”) made the compulsory purchase order (“CPO”) on 29<sup>th</sup> January 2021 under section 226(1)(a) of the Town and Country Planning Act 1990 (“TCPA 1990”) (as amended) and the Acquisition of Land Act 1981.

1.1.2 The acquiring authority is a unitary authority, with both local planning and local highways functions. The authority works closely with the Tees Valley Combined Authority (‘TVCA’), an authority representing the five local authorities in the Tees Valley, constituted by The Tees Valley Combined Authority Order 2016. Under devolution arrangements with central government TVCA has assumed responsibilities previously held by central government, so that investment decisions, particularly those relating to transport and infrastructure, are made locally.

1.1.3 The purpose of the CPO is to facilitate the development, redevelopment and improvement of the land with the CPO (the “CPO Land”), which acquisition will facilitate the implementation of the CPO Scheme together with development of other land for station improvements and railway enhancements. The acquiring authority is confident that the CPO Scheme is likely to contribute to the achievement of the promotion or improvement of the social, economic and environmental well-being of its area.

1.2.1 The CPO is SD1, the map referred to in the CPO is SD2, and the Statement of Reasons for making the CPO is SD5 and SD5a (appendices).

1.2.2 The area of works constituting the CPO Scheme is depicted schematically at SD8, and the CPO Scheme is described in section 4 of this statement (the ‘permitted development’).

1.2.3 “SD” means a supporting document listed in the appendix to this statement, and reference to a ‘section’ or a ‘paragraph’ unless otherwise qualified means a section or paragraph in this statement. ‘DHCLG’ means the Department for Housing,

Communities and Local Government, or other ministerial Department that from time to time has power to confirm compulsory purchase orders made under the TCPA 1990.

### *Consultations on the CPO Scheme*

1.3.1 The development of the CPO Scheme has involved an ongoing process of consultation with statutory authorities, specialists, and local advocacy groups (for example, Darlington Association on Disability - 'DAD'). A non-exhaustive summary of consultations can be found in the introduction to the Gateway East Design and Access Statement (SD11), submitted as part of the relevant planning application).

1.3.2 Public Consultation was made more difficult than normal due to regulatory restrictions imposed in response to the Coronavirus pandemic. However, the acquiring authority has taken into account government advice to consult as fully as possible by way of digital media, and to permit longer periods for responses to consultation and notifications during periods of 'lockdown'. The restrictions were particularly onerous during the early part of 2021 (when the CPO was made), but had eased sufficiently by early summer to permit meaningful consultation on the CPO Scheme to proceed as part of the pre-planning consultation process.

1.3.3 An extensive consultation exercise was undertaken as part of the pre-planning application process, including with the Council in its capacity of local planning authority and local flood authority, beginning in February 2020, continuing through 2020 and, with regard to the detailed proposals, in February 2021.

1.3.4 Specialist in-put was also received from Historic England, British Transport Police, Durham Constabulary, the Department for Transport Security, Northumbrian Water, and Network Rail. A presentation was made to Network Rail Built Environment Accessibility Panel (Network Rail BEAP) and to DDA on 5<sup>th</sup> May 2021 and the association's response was taken into account in formulating the planning applications for the CPO Scheme.

1.3.5 The formal public consultation on the Scheme took place during May 2021. This took the form of publishing the drawings and Scheme details on the Council's website,

with a facility for responding via the website. An article was published on the website and on relevant social media sites to alert the public to the presence of the Scheme details and the invitation to comment on the Scheme. TVCA and the acquiring authority released press statements in the established press (the Northern Echo) referring to the Scheme, and letter drops were undertaken (by the acquiring authority), one to local residents and one to businesses.

1.3.6 At the time of the letter drops referred to in the preceding paragraph, a letter drop was also made to persons directly affected by the CPO.

1.3.7 There has been separate consultation and engagement by the acquiring authority in relation to the authority's public sector equality duty (see section 3 below).

## **2. Description of the CPO Land**

2.1 The CPO Land is in two parts, one on the east side and the other on the west side of Darlington Railway Station (as shown in SD2).

### *The Eastern Part of the CPO Land*

2.2.1 The western boundary of this part of the CPO Land is formed by the public highway on the west side of Adelaide Street, the station car park on the south side of Albert Street and the railway. The eastern boundary is formed by the centre line of the public highway of Neasham Road, to the north and north-east by the north side of the public highway of St. John's Place, and to the south by the centre line of the landscaped area to the east of the car park, tapering to the southernmost extent of the car park. The southern boundary is formed by the centre line of the public highway of Garbutt Square and the southernmost extent of the station car park. The land is in use for station related car parking, highway, workshops and, to the north-east, light-industrial, hot food and residential uses.

### *The Western Part of the CPO Land*

2.2.2 The western boundary of this part of the CPO Land is formed by a line along Park Lane, the centre line of Pensbury Street, the western boundary of 'Hogans', and

the western boundary of number 1 Waverley Terrace. The eastern boundary of this part of the CPO land is formed by the public highway on the east side of Park Lane, and, to the north, access areas to the railway station. The northern boundary is formed by southern side of number 95 Pensbury Street. The southern boundary of this part of the CPO Land is formed by Park Lane, the former Darlington Cattle Market site, with a spur extending to the west between the centre line of the public highway of Waverley Terrace and the auction market. A significant part of the land is already public highway and access land; relevant buildings are predominantly former hotels or pubs, with some residential use.

2.3.1 Darlington Railway Station is an operational station on the East Coast Main Line ('ECML'). The station building and platforms lie between the two parts of the CPO Land.

2.3.2 The CPO Land is not allocated for any particular use in the current development plan, but lies within the development limits as defined in the proposals map of the Local Plan (1997), where development is supported by saved local plan policy E2, and the Core Strategy (2011) Policy CS1 (see section 4).

#### *Protected Assets*

2.4.1 There are no listed buildings located within the boundaries of the CPO land. 'Bank Top Railway Station (Main Building)' is listed as a building of special architectural or historic interest on the relevant statutory list (National Heritage List number 1310079). The building is listed grade II\*. The listed building is located immediately to the east of the western part of the CPO Land.

2.4.2 In one instance the works constituting the CPO Scheme will have direct physical impacts on a section of boundary wall between the adopted highway in Park Lane and the station, considered to be within the curtilage of the listed building. A short section of the wall is proposed to be demolished. Listed building consent has been granted for this work. Details are given in section 4.

2.5 As a boundary feature the wall is necessarily outside the CPO Land. No part of the CPO Land is therefore affected by any special consideration as a protected asset, either as

- a listed building, an unlisted building within a conservation area, or a building subject to a building preservation notice;
- a scheduled monument, or a registered park or battlefield; or
- land or buildings within a conservation area.

2.6 There is one protected tree within the CPO Land, located at the corner of Park Lane and Waverley Terrace. The tree is proposed to be removed as part of the Scheme. It was assessed last year (2020) and is considered a suitable candidate for replacement by alternative planting in the immediate locality. The removal was considered acceptable in principle by the local planning authority when it granted planning permission for the Western Gateway.

#### *Special Category Land*

2.7 There is no land within the CPO Land that:

- is owned by another local authority;
- is Crown land;
- is owned by the National Trust; or
- forms part of a common, village green, open space land or fuel or field garden allotment.

#### *Statutory Undertakers' Land*

2.8.1 Part of the land within the CPO Land is owned by Network Rail Infrastructure Limited ('Network Rail') as operational land. Such land is found within plots 15, 26, 31, 36, 42 of the CPO, and is afforded additional protection from compulsory acquisition by virtue of section 16 of the Acquisition of Land Act 1981 (as amended). Where such land is included in the CPO, in addition to the right to object, the statutory undertaker may make representations to the appropriate minister (the Secretary of State for Transport), in which case the special category land in question is subject to certification procedure by that minister. The acquiring authority is working jointly with Network Rail in the delivery of the CPO Scheme, and the arrangement agreed between Network Rail and the acquiring authority is expected to provide for the use and development of this operational land for the purposes of the CPO Scheme (see

section 8 (Deliverability) and 10 (Response to Objections), for explanation of the arrangements and Network Rail's 'holding objection').

2.8.2 A list of statutory undertakers served with notice of the CPO (other than Network Rail) can be found at SD45. Equipment and structures of the statutory undertakers will be protected, replaced, diverted, or extended as necessary.

2.8.3 The acquiring authority is in on-going discussions with relevant undertakers, in particular Northern Powergrid, from whom an objection has been received, but with whom the acquiring authority have given a costs undertaking to facilitate prompt agreement of the necessary protections of apparatus (see section 10).

2.8.4 The CPO Land does not include the electricity sub-station situated at the corner of Waverley Terrace and the former Darlington Cattle Market site.

2.8.6 There is no other land affected by special considerations within the CPO Land.

#### *Site History and Development*

2.9.1 The existing station is one of the Tees Valley's principal rail gateways and is strategically located on the ECML. It is a regional transport hub that serves the Tees Valley and the wider catchment including South Durham and North Yorkshire.

2.9.2 Darlington has a long and proud heritage with the Stockton and Darlington Railway of 1825 being the birthplace of the modern railway. The station was originally opened in 1842 and designed by Architect John Green. The station was subsequently replaced in 1861 by a new station designed by Thomas Proser, of which large parts of the North, South and Central Ranges still remain. In 1887 Architect William Bell greatly expanded the existing station with extended platforms and added the prominent Portico and Clock Tower on the west side approach along Victoria Road.

2.9.3 On the eastern side of the station, Neasham Road is a Historic route into Darlington, and much of the area is made up of early 20th Century housing which supported the expanding railway industry. The area directly affected by the CPO Scheme on the east side of the station is predominantly made up of garages and light



industrial structures, and station car park (which is laid out on the site of the station's main area of sidings, shunting lines and turntable).

2.9.4 On the north side of the station, the Parkgate road was lowered beneath the railway line which is supported on riveted metal girder bridges. The cutting and bridges were developed in stages as the track bed was widened to accommodate growing numbers of lines in the late 19th and early 20th centuries. Between two of the bridges is the Northern Ramp entrance to the station, which is currently used for drop-off parking and by taxis.

A new pedestrian bridge has been built beside the railway bridges which connects the northern end of the CPO Land to the new Central Park business area.

#### *Operational Constraints*

2.9.5 The station provides the town and region with good rail connectivity across the U.K.; however, railway industry studies note that the ECML north of York is at or very close to capacity, with train operators struggling to deliver franchise commitments as a result. The dated infrastructure at Darlington is an element contributing to this problem, and risks future improvements to the rail service.

2.9.6 The most significant issues at the station arise from the need for local east-west services having to cross the ECML. The crossing movement takes significant time and capacity from the ECML and is a major constraint on the development of new national and/or local services. The solution identified is a new station building on the east side of the ECML that will facilitate both national and local services without the need to cross the ECML.

2.9.7 The CPO Scheme is proposed as the first element of further improvements to upgrade the station (Station Enhancements and Operational Rail Improvements). The CPO Scheme can be delivered independently of the station enhancements and rail improvements, but the latter are unlikely to be delivered without the CPO Scheme, i.e. the creation of the Station Gateway.

#### *Redevelopment Constraints*

2.9.8 Proposed redevelopment on the western part of the CPO Land ('Gateway West') is predominantly for improved access, drop-off/short-term parking, and highways improvements (for pedestrian, cycle and vehicle users). The main constraint is the close proximity of existing buildings to the station access points.

2.9.9 Due to constraints on the west side of the station, any significant new building – main access, improvement to parking and station facilities – must be situated on the eastern and north-eastern part of the CPO Land ('Gateway East').

2.9.10 The location of the building within the site is determined by several constraints/requirements. These are the need:

- To link to the future (new) station platforms and bridge (to be built by others) to the new MSCP.
- To maintain a 33m space separation from the adjacent residential properties.
- To ensure a 22m offset from the existing tracks (required to allow for any future through tracks, so no structures are allowed in this zone).
- To provide an acoustic buffer between the properties on Garbutt Square and any access road.
- To ensure unobstructed sight lines to St Johns Church are maintained (no structures to be built in this zone).
- Access to the existing footbridge is maintained.
- To provide access to / egress from Neasham Road (as no access is possible to the north due to presence of the existing retaining wall).
- To provide an efficient parking layout which minimizes mass and height.
- To link the new station entrance to platforms, situated to the south.
- To provide a building footprint that addresses the irregular shape of the site and constraints caused by neighbouring properties, e.g. St John's Church and the railway tracks.

#### *Current Ownership and Efforts to Acquire the CPO Land by Agreement*

2.10.1 The area of the CPO Land (eastern and western parts together) is approximately 26,160 square metres. The area in question is not identical to the

cumulative areas depicted on the site plans accompanying the planning applications for development of the respective parts of the CPO Land.

2.10.2 The CPO Land is in multiple ownerships, usually with more than one interest in the same plot. There are 45 plots identified in the schedule and on the map appended to the CPO. The acquiring authority had already acquired some interests in the CPO Land at the time the CPO was made, and Network Rail owns a number of plots. Detailed discussion of negotiation for land interests is found in section 6 of this Statement.

The schedule to the CPO also identifies in Table 2 instances of mortgages or charges to be acquired, easements to be extinguished and covenants that will be overridden (in each case subject to the ability of the persons with the benefit thereof being able to claim appropriate compensation).

2.10.3. The land assembly strategy agreed between TVCA and the acquiring authority promotes acquisition by agreement where possible and the pursuit of the CPO, in tandem with voluntary acquisition. Details of progress with the programme to acquire the CPO Land by agreement is provided in section 6. Efforts are continuing to acquire the required land through negotiation with all interested parties.

2.10.4 Single ownership is required to enable development to proceed. Compulsory purchase will enable redevelopment to take place at an early date by providing certainty for programming and will enable the acquiring authority to achieve its objectives. The acquiring authority will continue to attempt to purchase land by agreement.

2.11 The extent of the CPO Land is illustrated on the CPO map (SD2) appended to the CPO. Individual plot boundaries and numbers on the CPO map correspond with the Schedule to the CPO (SD1). The land proposed to be acquired is shown coloured pink on the CPO map.

2.12 No new rights or easements, either temporary or permanent, are to be acquired compulsorily. All such necessary rights are in the process of agreement between the acquiring authority and Network Rail (see section 8).

### 3 Purpose of the CPO and need for the Scheme

3.1 Acquisition of the CPO Land is required to facilitate implementation of the CPO Scheme (and the further elements of the comprehensive scheme of station improvements and rail enhancements to be carried out by Network Rail). The CPO Scheme (Darlington Station Gateway) is a strategic project which aims to transform the access to, and the function of, an expanded mainline station by developing land immediately to the east and west of the existing station to create a multi-modal transport hub. This will be achieved through:

- i. The creation and integration of a multi-modal interchange, station shell, and new multi-storey car park;
- ii. The promotion of sustainable travel through priority enhancements for pedestrians and cyclists; and
- iii. Creating gateway approaches to improve access and public realm, that reflect the economic ambitions of Darlington and the wider Tees Valley region.

3.2 The CPO Scheme is an important first phase in upgrading of the station in accordance with the preferred option identified, following consultation, in the Masterplan for comprehensive redevelopment in 2016 (SD7). The elements of improvement identified in the Masterplan are listed below, with those that fall directly within the CPO Scheme emphasized by bold text, and the other elements, indirectly dependent on the CPO Scheme, in plain text.

- **A new station building, with multi-modal connections, to service the new platforms;**
- Provision for Bishop Auckland services to use the current platform 4, operating independently (conflict free) in the future, if desired;
- A new accessible footbridge linking the new platforms and station building with the remainder of the existing station;

- **A new transport interchange and MSCP adjacent to the new station building, serving rail users and potentially, adjacent developments;**
- **Access improvements for pedestrians and cyclists from Parkgate;**
- **Enhancement to the portico and transport interchange facilities on the western side of the station;**
- Two new platforms on the east side to accommodate existing and future Tees Valley local services;
- The track between these platforms and Darlington South Junction designed to ensure the local services can operate independently from the ECML, removing current capacity and reliability issues at Darlington South Junction; and
- Another new platform adjacent to the Up Goods Line, to be used by southbound intercity, HS2 and NPR services calling at Darlington – this would remove need to cross the ECML Down Main Line (north) at Darlington North junction, allowing all Down (northbound) intercity services to use the current platform 1, giving a much faster, unconflicted approach and departure in both directions, saving valuable time on the ECML.

3.3 The development, redevelopment and improvement contained in the CPO Scheme is authorised for planning purposes by the planning permissions discussed in section 4 ('Permitted Development'), and supported by the emerging policy referred to at section 5 of this Statement.

3.4 The CPO Scheme comprises highway and public access development but also demolition and significant building works, some of which will have or facilitate a commercial end-use. The power of compulsory acquisition identified by the acquiring authority as most appropriate to securing the required land interests is section 226(1)(a) of the Town and Country Planning Act 1990.

3.5 The authority must not exercise the power under section 226(1)(a) unless it thinks the development, re-development 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 their area;
- (b) the promotion or improvement of the social well-being of their area;
- (c) the promotion or improvement of the environmental well-being of their area.

3.6.1 The acquiring authority considers that the CPO Scheme if implemented will contribute to the achievement of all three objects. The purpose of the CPO is to

facilitate the development, redevelopment and improvement of the CPO Land. The acquisition will facilitate the implementation of the CPO Scheme together with development of the CPO Land and other land for other development (station improvements and railway enhancements) as part of a more comprehensive scheme. The benefits are considered in section 8 of the Statement of Reasons for making the CPO and are summarised here.

3.6.2 The proposals represent sustainable development, with multiple local, regional and strategic benefits. Many of the regional and strategic benefits are also of benefit to the acquiring authority's area given the authority's position as a housing, commercial and communications hub. Darlington's economic strategy is underpinned by its accessibility to national, regional and local transport networks. Its location on the ECML, adjacent to both the A1(M) and A66(T) and its proximity to Teesside International Airport provide easy access to the North East as well as to major conurbations including Leeds, Manchester and London

3.6.3 Economic and social strategic benefits include

- Improvement in east-west passenger and freight connectivity to the City Region Strategic Centres and Enterprise Zone sites
- Ensuring that the East Coast, Trans-Pennine, Durham Coast and Tees Valley rail networks can cater for expected future growth in both passenger and freight demand

3.6.4 Economic, Social and Environmental benefits at the local level include:

- An improved gateway to Darlington and the Tees Valley
- High quality, integrated and sustainable local transport services
- A station and surrounding area that are accessible and safe for everyone
- Improved access to employment opportunities through low carbon transport choices
- Ensuring that Tees Valley's principal railway station is ready for major projects such as HS2 and NPR (Northern Powerhouse Rail)

3.6.5 Of particular local economic and social benefit will be the increased connectivity of the Station to Central Park. Rail connectivity is important generally for both business and education with many businesses and education facilities clustering around rail stations, and business and education uses are a feature of Central Park.

3.6.6 Social benefits are expected from greater access to travel for all users of different abilities, and environmental benefits, from the provision of modern, high-quality facilities within an improved public realm, that will benefit both local residents and users.

3.7.1 If the CPO Scheme is not pursued it is likely that Darlington Station will continue to fail to fulfil its potential due to capacity issues and a lack of appropriate facilities. This adversely impacts on both mainline services (which affects national and regional connectivity) and those local services which either terminate or cross the mainline at Darlington.

3.7.2 Also, the station as currently configured does not necessarily provide safe, high-quality links between the station and the surrounding area, or good access in terms of the 'Access for All' programme. Railway stations can play an important role in the promotion of an area, given that they often provide the first impression to visitors. The impact of the CPO Scheme on the surrounding residential areas is also considered by the authority to be beneficial, and in the case of Gateway East to be a marked environmental improvement. The acquiring authority is convinced that the passenger experience and the facilities offered by the Station should be improved and that the convergence of TVCA, Network Rail and the acquiring authority's own interests is an opportunity not to be missed.

3.8 The CPO Scheme has a complex land requirement. The Scheme requires two distinct parcels of land located either side of the station, and these parcels contain a significant number of plots, in a wide range of ownerships, tenures and uses, and are located in a busy urban area with a long history of commercial and public services activity.

3.9 The land requirement must also be secured within a short timeframe if the currently available funding opportunities are to be utilized. £25m from TVCA to be spent by 31

March 2023 and the RNEP (the Department for Transport's 'Rail Network Enhancement Pipeline') funded project match – creating the £105m project fund - must deliver the entire scheme and allow a fully operational rail service before the end of 2024. See sections 8.4-8.5 and 8.18-8.20.

3.10 Bearing the above factors in mind, it is considered that alternatives to compulsory acquisition of land interests – voluntary acquisition by private treaty – although successful to a degree (see section 6) will not alone secure the land requirement in a reasonable timeframe, and probably not at all.

3.11 The requirement for dedication to public use of significant parts of the CPO Land also implies the acquisition of unfettered freehold interests. And in many cases, including the construction of buildings and facilities close to land boundaries, private third-party rights need to be extinguished and/or overridden, so that development can proceed.

#### *Authorisation of the CPO*

3.12.1 The CPO was made by authority of the Council's Cabinet, which met virtually, according to emergency Covid-19 constitutional arrangements at that time.

3.12.2 The Cabinet Meeting of 12<sup>th</sup> January 2021 considered the officer report (SD3), including the schedule of relevant land interests, the Outline Business Case (SD6) and the draft Statement of Reasons, and appendices (SD5a and 5b), and resolved to authorise the CPO and steps necessary to secure confirmation and acquisition of land interests, as set out in the minute of meeting attached at SD4.

#### *The Public Sector Equality Duty*

3.13.1 As part of the CPO process the acquiring authority has given consideration to the impact of the CPO and CPO Scheme on persons sharing protected characteristics as recognised by the Equality Act 2010, both through completion of an Equalities



Impact Analysis ('EQIA') and generally both at the inception and through the planning of the Scheme

3.13.2 The acquiring authority has a duty under section 149 of the Equality Act 2010 ('the public sector equality duty'), in the exercise of its functions, to have due regard to the need to:

*advance equality of opportunity between persons who share a "relevant protected characteristic" and persons who do not share it [emphasis added]; and*

to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act;

and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

3.13.3 These duties are reiterated at paragraph 6 of the DHCLG CPO guidance (2019).

3.13.4 Having considered the CPO and the CPO Scheme in relation to the public sector duty, the Authority considers that acquisition of the CPO Land will facilitate safer and easier access to the Station for all persons, including on foot, of whatever ability. Once delivered, the CPO Scheme will facilitate easier access to the public transport network, especially the rail network, for people without access to cars, or persons of reduced mobility. The acquiring authority is satisfied that the new arrangements for pedestrian from the MSCP to station facilities, and access to station facilities generally by other 'non-motorised access' users, is in both cases better than current access, for all genders, and including for those who have one or more disabilities, or are of advanced years.

3.13.5 In relation to the compulsory purchase process, the authority is satisfied that the facilities for assisting in the accessing of documents and engaging with the consultation process have benefitted and advanced equality by way of adjustments necessary to permit those sharing relevant protected characteristics – primarily disability, age, and race (language), affecting access to information and communication of representations – to make their views known. These included, for

example, adjustments for language differences and visual impairment, and advice and advocacy for people with sight problems or learning difficulties. The adjustments are likely to have been more effective during in the period March 2020 – May 2021 than might normally have been the case, when longer notice periods were employed by the authority and extra attention paid to virtual rather than meetings-based consultation and dissemination of information.

3.13.6 The need for a specialist, independent analysis of equality impacts has also been reviewed by the acquiring authority. The conclusion of that review, informed by on-going engagement with owners of qualifying interests, was that a formal, focussed, EQIA should be commissioned from external consultants. The results of the EQIA can be seen at SD40.

3.13.7 The EQIA was undertaken to assess the potential impact of the implementation of the CPO and the CPO Scheme on people with a qualifying interest (including rights of occupation) and sharing protected characteristics.

3.13.8 The EQIA concludes that if the CPO becomes operative *'previously identified negative equality effects of the planned development may arise. However, the comprehensive mitigation measures will help to minimise these effects'* (paragraph 7.1.2 of the EQIA).

3.13.9 In relation to the CPO and the CPO development 'It is not considered that the residual negative equality effects of the proposed development, as realised by the CPO, will amount to unlawful discrimination'.

3.13.10 The findings of the EQIA will be monitored and reviewed throughout the CPO process and further Scheme implementation to ensure that any future impacts can be measured and mitigated against as necessary.

3.13.11 Having regard to its duty under section 149 of the Equality Act 2010, the acquiring authority believes that the positive benefits of the CPO Scheme, many of which contribute to equality of opportunity, outweigh any residual negative equality impacts.

## 4. The Permitted Development

4.1.1 The CPO Scheme is authorised by two planning permissions, one for Gateway East under planning reference 21/00688/DC, and one for Gateway West under planning reference 21/00691/DC. Both are granted by the acquiring authority in its separate capacity as local planning authority.

4.1.2 A listed building consent has also been granted under reference 21/00750/DCLB in relation to a section of curtilage listed wall situated against the eastern boundary of the CPO Land in Park Lane (Gateway West)

### *Gateway East*

4.2.1 The Gateway East planning permission is for “*demolition of existing buildings and erection of station building with concourse, multi-storey car park, transport interchange, public realm and highways works and alterations to boundary wall*”. A copy of the planning permission is at SD10. The permission must be implemented within three years of the grant (by 29<sup>th</sup> September 2024).

4.2.2 The development proposal was assessed by the local planning authority as compliant with relevant development plan policies, and with national policy. The planning officer report presented to the relevant committee (SD9) noted that ‘the project will deliver the biggest transformation of the station in decades providing modern, pedestrian-friendly travel interchanges for the town and the wider region’.

4.2.3 The proposals were subject of extensive pre-application engagement with planning officers and with external partners, such as Historic England. The acquiring authority also carried out a consultation exercise with local residents in accordance with the planning authority’s Statement of Community Involvement document. The latter resulted in questions and observations from 11 persons. The consultation report submitted as part of the planning application can be found at SD41.

4.2.4 Following an “extensive publicity and notification process by the local planning authority, five letters of objection were received from three households” (planning

committee report, paragraph 23). The objections related to the perceived visual impact of the multi-storey car park, and the increase in traffic, noise and fumes. However, the committee report concluded that the new buildings will be located to minimise impacts on the outlook of residents (planning committee report, paragraph 101), and that the scheme is well-designed and accords with relevant development plan policies on such matters. The other concerns were considered amenable to control through planning conditions.

4.2.5 Gateway East is in a highly sustainable location, within the development limits of the urban area. There are no highway safety or sustainable transport objections to the principle of development. The planning application was accompanied, amongst other submissions, with the following main documents which can be found within the Supporting Documents:

- Design and Access Statement, in three parts (SD11, SD11a and SD11b)
- Transport Assessment, in two parts (SD12 and SD12a)
- General Site Plan (SD13)
- The MSCP site plan (SD14)
- The Landscape General Arrangement Plan (SD15)
- Plan of Highways to be stopped-up and created (SD16)
- Heritage Statement (SD17)
- The Non-Motorised Users Plan (SD18)
- The MSCP Demand Study by Systra (SD19)
- The Works General Arrangement Plan (SD20)
- The Demolition Plan (SD21)

All of the documents related to the planning application for Gateway East can be seen at:

<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?keyVal=QUFAF6FP0C200&activeTab=summary>

4.2.6 In terms of design and visual appearance of the proposals the planning officer report to committee stated that *'Based on the information that has been submitted in support of the planning application, officers are convinced that the significance of the site and the surrounding heritage assets is well understood, and the development has*

*been designed to reflect the assets whilst needing to meet other operational requirements. ... Furthermore, it is considered that in accordance with the requirements of the National Planning Policy Framework 2021 (paragraph 202) that there are significant social, economic and heritage public benefit which would be derived from the proposed development (paragraph 53 of the officer report).*

4.2.7 The number of car parking spaces proposed by the multi-storey car park ('MSCP') was justified in the application. The MSCP will have 672 parking spaces, including 38 for electric vehicle charging, and 36 disability spaces (of which 4 are for electric vehicle charging). The MSCP is the main parking location within the improved station, and is needed to supply sufficient parking spaces for the next 25 years (paragraph 62 of the planning officer's report to committee).

4.2.8 The Gateway East part of the CPO Scheme provides for the new station shell and the interchange building, but does not provide for the station building enhancements, or the new footbridge. These latter two elements of the station upgrade are to be designed and implement by Network Rail under a separate planning permission or permitted development rights.

4.2.9 Highways improvements in Neasham Road and to the eastern side of the development are to be secured through appropriate agreements (under section 278 of the Highways Act 1980 where the freehold in the land in question is already vested in the local highway authority and parties other than the acquiring authority are involved).

4.2.10 Several pre-commencement conditions are attached to the planning permission, and the acquiring authority is confident that it will be able to satisfy all such conditions in accordance with their terms.

### *Gateway West*

4.3.1 Planning permission has been granted for the development of Gateway West (SD25). The development involves the demolition of some nineteenth century buildings opposite the station, new access and turning facilities, engineering

operations to create new/expanded highway, and public realm works – all to provide improved transport interchange, including passenger drop-off points, bus stops, facilities for safe cycling and walking.

4.3.2 The planning officer's report (SD26) makes it clear that the public benefits of the development comprised within Gateway West were sufficient to in the planning balance to justify the less than substantial harm constituted by of the loss of non-designated heritage structures. This accords with the promoter's assessment of the planning case, as supported by the Heritage Statement (SD29)

4.3.3 The Design and Access Statement (SD27) and engineering layout (SD28) defines the proposal, and the consideration of options for vehicle turning and access, non-motorised access users, vehicle highway manoeuvres, which determine the land requirement, can be seen in the drawings at SD31 and SD31a.

4.3.4 SD30 shows the proposed landscape arrangements.

4.3.4 All documents relating to the planning application for Gateway West can be seen at:

<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QUFUVKFP0C200>

#### *The Listed Building Consent*

4.4.1 The application for listed building consent relates to the demolition of a section of boundary wall to the west of the grade II\* listed station (see SD32 for location and scale). This is consent for 'the partial demolition of car park boundary wall and re-use of existing bricks to create 2 no. entrance pillars'. The entrance created would be just in excess of 3 metres wide.

4.4.2 The wall in question was considered in the submitted Heritage Statement, where it was assessed as being a later construction (c. 1915) than the station building. The local planning authority's conservation officer considered the partial demolition

acceptable subject to appropriate conditions as to design, re-use of the bricks and the use of other materials, for example sandstone capping.

4.4.3 A copy of the listed building consent can be seen at SD33.

All documents relating to the listed building consent application can be seen at:

<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?keyVal=QV7G23FPFH400&activeTab=summary>

## 5. Planning: Emerging Local Policy

5.1 The relevant development plan (excluding the combined local plan for minerals and waste) is the Darlington Core Strategy (2011) (SD35) and the saved policies of the 1997 Local Plan (Alteration 2001) (SD34 and SD34a). The planning applications for the eastern and western parts of the CPO Scheme (Gateways East and West) are both in accordance with the development plan, and were found to be so by the local planning authority when granting the relevant permissions.

5.2 Darlington's replacement local plan is at an advanced stage, with the final examination hearing having taken place in mid-September (2021). It may be noted that although not yet adopted, new Local Plan policy for Darlington Station would continue to support the CPO Scheme. The Railway Station enhancements are specifically referred to in the Local Plan 'Infrastructure Delivery Plan 2020' (page 28).

5.3.1 The submission Local Plan includes IN1 B, which consists of the following policies.

- i. Improving inter and sub-regional links to neighbouring centres by ensuring that the Borough is served by high quality rail and bus links;
- ii. Improving connectivity between other forms of sustainable travel and the rail network mainly by providing improved interchange facilities;

### **Specific priorities for the rail network:**

- iii. Supporting the improvement of Darlington Station. Informed by a masterplan, work will be undertaken to improve interchange facilities and improvements to the mainline, local and inter-regional routes, potential high speed rail services and sustainable access to the station including bus, walking and cycling.'

5.3.2 The emerging local plan considers further development of sustainable transport, including railways, increasing connectivity, maintenance of Darlington's position as a transport gateway, and economic growth as fostered by communication and networked infrastructure as central policy aims and objectives (extracts from the emerging local plan, at SD36).

5.3.3 The Transport Topic Paper (February 2021) submitted to the Local Plan examination by the local planning authority stated as follows.

'Darlington is the main interchange hub in the Tees Valley for national and inter-regional rail connections, making it a 'gateway' for rail journeys into and out of the Tees Valley. Typically in the region of 2.2 million passengers use Darlington station each year.

However, in comparison to its excellent north-south connectivity, Darlington is relatively inaccessible from other key centres within the Tees Valley and from nearby employment areas of South Durham via the Bishop Line. Journey times to Darlington from Middlesbrough and Stockton (as adjacent key centres) are improving, taking between 26-28 minutes which is comparable with car travel, however there are currently no direct train services from Stockton or Hartlepool to Darlington. The service is currently operated every 30 minutes with aspirations for a 15-minute frequency through to Saltburn. This relatively poor east-west connectivity by rail within the Tees Valley impacts on the external connectivity of the Tees Valley as a whole, reducing the attractiveness of the excellent north-south links from Darlington to potential users from the rest of the Tees Valley. However, capacity issues at Darlington are currently a constraint to enhancing these local rail links. In addition, Darlington Station has been identified as one of the stations that will need to be upgraded as necessary to accommodate high speed rail services.

Darlington to Bishop Auckland by train is around a 27-minute journey but is only operated on an hourly service. There are ambitions to increase this to a half hourly service.

Given the predicted increase in car ownership<sup>1</sup> in the Tees Valley and the advantage of car journey times, increased trips are forecast on the road network. Therefore, improvements to local as well as long distance rail services are sought by 2036.

Ensuring that rail freight can move easily to and from Teesport will be an important issue during the Local Plan period, for example, the operation of the Hitachi train manufacturing at Newton Aycliffe is identified as being one of the key employment opportunities in the North East and it is intended that components and other supplies required by the plant will be transported by rail as often as possible. For the site to be well served by rail from Teesport, improvements and upgrades to Darlington Station are required. Teesport is by some margin the most important port in the North East and the fifth largest in the UK.

The Council is working with TVCA and other local authorities along the route of the East Coast Main Line (ECML) to make the case to Government and the rail industry for further investment in the ECML. Such investment is seen as essential to improve journey times, service reliability, service frequency and the line capacity that is needed to support the movement of people and freight envisaged for Darlington and the Tees Valley, as set out in



Darlington's Economic Strategy and the Tees Valley Strategic Economic Plan. The local authorities are keen to have a strong partnership with the rail industry, to create a vision for and the strategic development of the ECML and connecting services and routes, both for passengers and freight. Improvements that may be brought forward within the Plan period are:

a) A revised platform layout and better passenger facilities at Darlington Station, either for local train services only or for ECML/High Speed rail and local train services;

b) Modifications to rail infrastructure to permit larger shipping containers to be moved on freight trains, thus increasing the competitiveness of local businesses including Teesport;

c) Improving sustainable travel options to stations, including:

– Plan for Darlington Station - first phase being the construction of Parkgate Footbridge which was completed in 2018; Work is ongoing to improve the main walking routes to Darlington Station.

– Lack of car parking at Dinsdale Station (Middleton St. George).

Policy IN1 B iii addresses the requirement to improve Darlington Station to enable more frequent sub-regional rail services to operate between Darlington and the Tees Valley and Bishop Auckland.

Policy IN1 B i provides for improved rail links.

Policy IN1 B ii addresses the requirement for improved connectivity/interchange at the rail stations within Darlington.'

5.4 As there have been no suggested modifications to the rail elements of the plan during the Local Plan Examination Hearings (now closed) it is the acquiring authority's opinion that these policies will not change. The local planning authority's Head of Planning Policy, Economic Strategy and Environment has confirmed to the promoters that the plan should be adopted early in 2021 with no changes to local plan policy pertinent to the issues at the inquiry.

## **6. Negotiations for Acquisition of interests in and rights over the CPO Land**

6.1 In February 2020 the acquiring authority agreed a land assembly strategy, to promote a comprehensive approach to site acquisition.

6.2.1 The Schedule to the CPO lists all parties with a qualifying interest in the CPO land as defined by section 12(2) of the Acquisition of Land Act 1981 including:

6.2.2 Owners, lessees, tenants and occupiers of the CPO land;

6.2.3 Those with the benefit of rights within the CPO land or restrictive covenants that affect titles that make up the CPO land; and

6.2.4 All other parties known to the acquiring authority who have a power to sell, convey or release an interest or right over the CPO land, including any parties entitled to make a compensation claim under section 10 of the Compulsory Purchase Act 1965.

6.3 The CPO Schedule has been prepared following an extensive referencing exercise by the acquiring authority and the firm Terraquest (acting on behalf of the authority). Information in the schedule is based upon information gathered through inspection of: Land Registry entries and related filed documents; the acquiring authority's own records, including rating records, planning records, and terrier; site inspections and enquiries with occupiers of the land and/or their agents (including responses to questionnaires issued by Terraquest and the acquiring authority).

6.4 All owners, tenants, occupiers or others with a qualifying interest, where their identities are known, have been advised in writing that the scheme budget will fund their costs in transferring their interest to the authority.

6.3 Upon contact with the acquiring authority, potentially affected land owners were advised, as a first step, to engage independent legal advisors or agents. Where permitted by the owner etc. in question, an Estates Officer has inspected the property and prepared an offer to the owner and/or their legal advisor or agent.

6.4 Agents are acting for the acquiring authority in negotiation of five acquisitions, two of which have progressed to completion.

6.5.1 Current progress and status with the acquisition of qualifying interests is summarised in the table 'Qualifying Land Interests: Status of Acquisitions' (SD43) This document is of necessity a 'live' document which will be updated periodically, as merited by changes secured by negotiations or otherwise.

6.5.2 Engagement with the owners etc of qualifying interests has been systematic and on-going, and has intensified since the making of the CPO. Communication has been both in writing and by telephone and, where permitted by the owners, in person by site visit. Logs have been maintained of the communications, providing a continuing record of progress.

#### *Relocations*

6.6.1 The CPO Scheme will require the relocation of three residential owner-occupiers and one residential tenant. The Council maintains a residential housing stock as local housing authority, but the residential occupiers have all confirmed that they are not agreeable to move into Council housing. Accordingly, in line with their stated preferences, the Council has focussed its efforts on providing assistance relocating to the affected residents. Discussions with businesses in occupation have taken place since the CPO Scheme proposals were first consulted on, but to-date only one business occupier has actively engaged with the authority in seeking an alternative premises (for hot food sales). The authority has also engaged with residential occupiers in their search for properties, including outside Darlington (for example in Bishop Auckland), and, as is routine, has confirmed early on in the process that the authority will be responsible for their surveyor's fees. The authority also confirms that it will meet translator's fees where relevant to the parties in question.

6.6.2 The authority has written to residential owners suggesting that they engage a surveyor to represent them not just in the acquisition of their property but also in the identification, assessment of suitability, negotiation, survey and purchase of a replacement property.

6.6.3 The authority also recognizes that it would be very difficult for affected residential owners to find a similar type of property at the same price, due to the lower valuations of residential property in the location of the CPO Scheme. With this difficulty in mind officers of the acquiring authority and TVCA have approved a report by consultant surveyors to enable it to offer more than market value in order for the claimants to move to a similar property in a better area. The authority will be writing to residential occupiers again this week reiterating all of the above and inviting the occupiers to further discuss the assistance available.

### *Statutory Undertakers*

6.7.1 At the date of the making of the CPO there were no statutory undertakers other than Network Rail with the interest of an owner, leaseholder/tenant or occupier of land with the CPO land. This continues to be the case.

6.7.2 Statutory undertakers with benefitting from wayleaves and/or the right to maintain apparatus with the CPO land were listed in the CPO Schedule, and were all served with notice of the CPO and all relevant documents at the same time as those with a qualifying interest.

6.7.3 The statutory undertakers are:

- Northern Gas Networks;
- National Grid plc;
- Northumbrian Water Limited;
- Northern Powergrid Holdings Company;
- National Grid Electricity Transmission Limited;
- British Telecommunications plc; and
- Openreach Limited.

6.7.4 The authority received one objection from undertakers (Northern Powergrid). Generally, the acquiring authority has acknowledged to undertakers that where their apparatus is affected by the CPO Scheme the apparatus will be protected or relocated as required. The acquiring authority is also in negotiations with this Northern Powergrid, has made significant progress with agreeing provision for the protection or

relocation of the relevant apparatus and appropriate new rights, and is confident that the objection will be withdrawn.

6.8.1 All necessary temporary rights and licences over land not within the CPO Land but required by the acquiring authority to construct the CPO Scheme will be granted to the authority by Network Rail. The acquiring authority is satisfied that all such rights are able to be granted by Network Rail as owner of the relevant land.

6.8.2 Network Rail are working closely with the acquiring authority in delivering the CPO Scheme, which scheme, as explained in sections 3 and 8 of this Statement, is acknowledged by Network Rail as a precursor to further station enhancements and railway improvements. A comprehensive agreement between the parties to facilitate the construction of the permitted development (as described in section 4 above) is to be completed, the Heads of Terms and a deed of undertaking already having been agreed.

6.8.1 The CPO schedule lists several plots with unknown owners. The document 'Qualifying Land Interests: Status of Acquisitions' (SD43) sets out those plots where there the freehold owner is unknown.

6.8.2 The steps taken to identify/locate possible owners of these (unknown owner) plots include:

- Land referencing by Terraquest
- Investigation of title upon acquisition by agreement from adjoining owner
- Erection of site notices on areas of unknown ownership
- Press notices advertising making of order
- Press notices for planning applications
- DBC website
- Online communication activities around scheme promotion

Enquiries continue to be made.

6.9 Interests in Mines and Minerals are included in the schedule to the CPO. It is not envisaged that the acquiring authority will seek to acquire these interests, and the Mining Code is not incorporated within the CPO. The authority wishes to retain the residual right to acquire such interests, however, should difficulties arise in relation to works which affect the delivery of the CPO Scheme.

6.10 The acquiring authority will continue its attempts to acquire interests by agreement. This will be undertaken alongside and throughout the CPO process, up to should the CPO be confirmed. However, as there is no certainty all interests can be acquired by agreement, the CPO is necessary to ensure the CPO land can be assembled to deliver the CPO scheme.

## **7 Justification for Compulsory Purchase**

7.1.1 Under section 226(1)(a) of the TCPA 1990 the acquiring authority has the power, on the authority of the Secretary of State for Housing, Communities and Local Government ('DHCLG'), to acquire compulsorily any land in their area which will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land providing it is likely to contribute to the achievement of the promotion or improvement of either the:

- (a) economic well-being of their area;
- (b) social well-being of their area; or
- (c) environmental well-being of their area.

7.1.2 The purpose of the CPO is to facilitate the development, redevelopment and improvement of the CPO Land described in section 2 below, which acquisition will facilitate the implementation of the CPO Scheme together with development of the CPO Land and other land for other development (station improvements and railway enhancements) as part of a more comprehensive scheme.

7.1.3 The need for the CPO Scheme has been set out in section above:

- generally, within the context of station development, redevelopment and improvement; and
- specifically, in the form in which it is conceived by the permitted development.

Both in this section (7) and section 10 (response to objections) the need for specific plots is also explained.

7.2.1 The acquiring authority is satisfied that section 226(1)(a) is the appropriate power in this instance: the CPO Scheme is pursued by the authority as the provider of a range of development elements, including the demolition of buildings, the provision of a multi-storey car park, transport interchange, and the improvement/provision of other buildings and structures (for example a canopy over part of the new Station Building).

7.2.2 Although the western part of the CPO Land (Gateway West) comprises significant works in the highway, those works are part of the single CPO Scheme to provide new interchange facilities, and would be difficult to justify as an isolated highways scheme without reference to the station. For example, highways improvements which did not simultaneously exclude vehicles from the porte-cochere part of the station would not be a workable alternative.

7.3 The acquiring authority recognises that a compulsory purchase order, even if expedient for the authority, should only be promoted if there is (and continues to be) a compelling case in the public interest which justifies the interference with the human rights of those with interests in the CPO Land.

7.4.1 DHCLG Guidance, *Compulsory Purchase Process and the Crichel Down Rules* (2019), paragraph 2 advises as follows.

7.4.2 *'Acquiring authorities should use compulsory purchase powers where it is expedient to do so. However, a compulsory purchase order should only be made where there is a compelling case in the public interest.'*

7.4.3 *'The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement. Where acquiring authorities decide to/arrange to acquire land by agreement, they will pay compensation as if it had been compulsorily purchased, unless the land was already on offer on the open market.'*

*Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. However, if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost.*

*Therefore, depending on when the land is required, it may often be sensible, given the amount of time required to complete the compulsory purchase process, for the acquiring authority to:*

- plan a compulsory purchase timetable as a contingency measure; and*
- initiate formal procedures.'*

7.4.4 The DHCLG guidance goes on to say, as an overarching consideration, that:

*'An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention.'* (Paragraph 12, DHCLG Guidance)

7.5 The land assembly strategy pursued by the authority (and approved by the TVCA/acquiring authority Project Board) promotes acquisition by agreement where possible and the pursuit of a Compulsory Purchase Order from Summer 2020 onwards for land interests that could not be acquired by private treaty (see section 6 above).

7.6.1 Together with land in which the acquiring authority and Network Rail already have the requisite ownership and rights, the land the subject of the CPO is the minimum necessary to deliver the CPO Scheme. The acquiring authority has carefully considered the need to include land within the CPO, i.e. the need for each plot, the physical extent of each plot, and each and every interest within each plot.

#### *Gateway East*

7.6.2 The site constraints and development configuration are discussed at sections 2, 3 and 6 of the relevant Design and Access Statement (SD11, SD11a and SD11b). The 'Station Improvements, CPO Plots Overlay' (SD22) shows the elements of the CPO Scheme at Gateway East overlain by all CPO plot boundaries.

#### *Plot No. 27: Part of LNER operated Car Park in third party ownership*

7.6.3 The location of the new MSCP and concourse has been fixed by the surrounding site conditions. The new concourse connects rail passengers with the proposed new platforms to the south of the CPO area, whilst any new structures had to be a minimum 22m away from the existing railway tracks. To the East of the site any proposed



structures are required to be a minimum of 33m away from any existing residential properties. The MSCP and concourse building is therefore positioned between the railway offset and the residential offset.

Plot 27 is located within the proposed construction area of the MSCP and concourse to the south of the site. As per the current brief and requirements for the MSCP and station expansion the purchase of plot 27 is essential. The expansion of the station and proposed scheme is not viable without the inclusion of Plot 27.

*Plot No.12 (Fish and Chip Shop), and Plot No.14 (16 Neasham Road)*

7.6.4 The brief for the project is to create a new interchange and high-quality public realm which improves access and safety for pedestrians and cyclists into the site and station. The works will create an interchange for passenger drop off and for 4 bus replacement coaches. The location of the MSCP and the Concourse has been fixed by the offsets to the surrounding buildings and the railway tracks. The new public realm and interchange is therefore located to the north of the site with access from Neasham road. Due to the site conditions access to the site is restricted to the East only from Neasham Road between the junction for St John's Place and Garbutt Square.

Plots 12 and 14 within the CPO application are situated at a prominent position within the proposed interchange area. The plots are located on the junction of Albert Street and Neasham Road where the majority of motorised and non-motorised traffic will approach the building.

7.6.5 Whilst it would be possible in theory to retain the buildings it would be severely detrimental to the operation of the proposed public realm and interchange. If the buildings were retained access into the site would be confined to Albert Street funnelling motorised, non-motorised and pedestrians down one small access route without proper separation and with restricted visibility for motorised users. Without creating a new junction suitable for the proposed interchange on the location of the existing buildings the safety of both pedestrians and drivers will be reduced.

Plot No 12 lies within the junction area of the proposed access to the pick-up and drop-off area. The location of this access is a function of the MSCP / station concourse

building position to the south of this access and its functional relationship to the building (e.g. pick-up and drop-off of railway users). The access is positioned to provide appropriate junction visibility to the north and south and separation to the proposed signalised pedestrian crossing just to the south, as well as the bus layby and Yarm road to the north. It is also located having regard to the vertical alignment of Neasham Road in terms of forward visibility.

Plot No 14.

Plot No 14 lays just to the south of the junction area of the proposed access to the pick-up and drop-off area and where pedestrian and cycle access is proposed for the station concourse. The location of these facilities is related to the position of the access and its functional relationship to the station concourse building entrance. It is also related to the position of the proposed signalised pedestrian crossing the bus layby just to the south.

7.6.6 The acquisition to the north and north-east of the site is determined by the access/egress and sight line requirements to and from Neasham Road/Parkgate, bearing in mind the constraints of the existing wall and change in height between St. John's Place and Parkgate. The spatial requirements of the new circulation areas in front of the proposed interchange can be understood by reference to the Non-Motorised User Plan-1794377 (SD18) together with the interchange access Swept Path Analysis Plan-1794381 (SD12a) and the Proposed Access Arrangements Plan-1818439 (SD23).

7.6.7 Access and egress for the interchange and for the MSCP are from Neasham Road. In relation to the extent of the proposed CPO Land acquisition (as shown on the CPO Map (SD2)), it can be seen that, to the east, this follows, for the most part, the centre line of Neasham Road. There is a clear overlap with the currently adopted highway (compare the CPO Land boundary on the east side with the extent of the adopted highway shown on SD16 (Highways to be Stopped-up and Created)). This is to ensure that CPO Scheme is not constrained by any lack of rights to sub-soil (for example in relation to the installation of station utilities), and that any claims to an interest in the sub-soil may be considered and acquired or extinguished by the CPO.

In other instances, the extent of the CPO acquisition in this area is intended to facilitate the dedication to use as further adopted highway land adjacent to the existing adopted highway (on both the north and south side of the MSCP access). However, the extent of the proposed acquisition has been carefully considered, and kept to a minimum, as can be seen from the complex inter-relationship between land to be compulsory acquired and existing highway to be stopped-up only, in Garbutt Square (see the Stopping-Up Plan-1818433 (SD42).

(The arrangements along Garbutt Square have been the subject of a separate Swept Path Analysis - Plans-1818435 and 1818438 (SD 24a and SD24b).

### *Gateway West*

7.6.8 Gateway West, proposes improved safe access for range of users (primarily for bus passengers, cyclists and pedestrians, but also for refuse vehicles, rigid chassis 10 tonne vehicles and cars. The existing highway arrangement has an extremely tight bend with poor forward visibility that requires larger vehicles to cross into the opposing lane. This coincides with one of the main pedestrian accesses to the station and the vehicular access and egress to the parking in the area, which makes pedestrian movement potentially hazardous. Public transport interchange facilities are currently poor, with narrow footways on Park Lane meaning that covered waiting facilities cannot be provided.

To facilitate the scheme acquisition of 4 properties were considered necessary together with an area of Network Rail land to the north of the Portico adjacent to the Pensbury Street back lane to accommodate the proposed turning head.

7.6.9 Section 4 of Design and Access Statement, by Sanderson Associates of June 8 2021 (SD27) explains the road design iterations, and the site development constraints are summarised and referenced at paragraphs 4.3.2-4.3.4 above. The Engineering Layout and the Landscape Masterplan (respectively documents SD28 and SD30 of the Supporting Documents), show the Scheme details for this, western part, of the CPO Scheme

7.6.10 In order to ensure the proposals accommodate the appropriate vehicle movements, swept path analysis has been undertaken. The following drawings are included at Appendix A of the Design and Access Statement submitted with the Gateway West planning application (see the plans within supporting document SD31).

- Drawing 11789-003 – Refuse vehicle accessing the rear of Pensbury Street and utilising the new turning head to manoeuvre and exit in a forward gear.
- Drawing 11789-004 – Refuse vehicle utilising the new turning head on Waverley Terrace to manoeuvre and exit in a forward gear.
- Drawing 11789-005 – Bus turning right from Victoria Road to Park Lane
- Drawing 11789-006 – Large cars utilising the new access to the existing car park to the east of Park Lane.
- Drawing 11789-007 – Pensbury Street – Fire Tender and 10m Rigid.

7.6.11 The existing arrangement provides a poor quality entry point to the station, creates potential safety issues due to its constrained nature and provides poor interchange between modes.

The Western Gateway scheme will improve pedestrian and cycling facilities (building on the recently completed Victoria Road pedestrian and cycle improvement schemes), provide a highway to the required standard and provide improved bus interchange facilities.

7.6.12 The acquisition of Plot 43 is required to enable the full benefits of the scheme to be achieved and is specifically needed to enable the improvement to the highway geometry on the approach to the station and to accommodate the improved bus interchange facilities and associated public realm.

7.6.13 The highway is proposed to be realigned to remove the existing grossly substandard 90-degree bend as Victoria Road turns into Park Lane. The proposed highway arrangement will enable a new level access priority junction to be created by connecting Park Lane into Pensbury Street. This will slow vehicles down due to the change in carriageway levels and the need to give way when approaching from Victoria Road. It will provide enhanced and safer pedestrian crossing points with good

visibility. The realignment of the road does require the acquisition of Plot 43 in order for it to be built to appropriate contemporary geometric standards.

7.6.14 The improvement of the existing limited and incoherent bus interchange facilities is an essential element of the station redevelopment project. New bus stops on wider footways and with lay-by provision are proposed on both sides of Park Lane as close to the station access as feasible. The bus stop on the western side of Park Lane is partly located on plot 43 and the closure of Waverly Terrace, which is required to facilitate it, necessitates a vehicular turning head that is also partly located on plot 43. Alternative locations for this stop were considered including across the back lane (between Victoria Road and Waverley Terrace) junction onto Park Lane but were discounted due to the need to maintain vehicular access down the lane. The proposed arrangement provides the best option for bus to rail interchange.

7.6.15 Without ownership and control of the entire CPO land it is not possible to deliver the CPO scheme as currently proposed and permitted. A smaller site or smaller version of the CPO scheme would not achieve the environmental, social and economic benefits associated with the CPO scheme.

7.6.16 The acquiring authority considers that there are clearly no suitable alternative sites. In accordance with the redevelopment constraints (discussed at paragraph 2.9 above), and design options and details discussed in the Design and Access Statement for Gateway East (sections 3-6 – options testing, scale and design), the acquiring authority also considers that the approved layout of the CPO Scheme is the most optimal in planning terms.

*Promotion and/or Improvement of the Economic, Social and Environmental well-being*

7.7.1 The project of which the CPO forms a key and facilitating element will bring economic, social and environmental benefits both to Darlington and the wider Tees Valley; the proposals represent sustainable development. The CPO Scheme if successfully implemented will be instrumental in securing the benefits outlined in paragraphs 3.6.4 and 3.6.5 above (and elsewhere in this Statement, the Outline and

Updated Business Cases, and the planning applications). These benefits include, but are not limited to, the following:

- Improvement in east-west passenger and freight connectivity to the City Region Strategic Centres and Enterprise Zone sites
- East Coast, Trans-Pennine, Durham Coast and Tees Valley rail networks that can cater for expected future growth in both passenger and freight demand
- An improved gateway to Darlington and the Tees Valley
- High quality, integrated and sustainable local services
- A station and surrounding area that are more accessible and safer for everyone
- Improved access to employment opportunities through low carbon transport choices
- Ensuring that Tees Valley’s principal rail gateway is ready for major projects such as HS2 and NPR
- Transport decarbonisation through modal shift to more sustainable transport modes by better integration and connectivity between rail and bus, cycling and walking infrastructure providing connectivity to the town centre and other key destinations.

7.7.2 Local benefits include increased connectivity of the Station to Central Park. Rail connectivity is important generally for both business and education with many businesses and education facilities clustering around rail stations, and business and education uses are a feature of Central Park.

7.7.3 Specific local/neighbourhood benefits include improving Victoria Road’s transport links to the station (and therefore of the Station to the Town Centre).

As a precursor to the west gateway works Victoria Road has been recently improved by the acquiring authority, for example with a revised layout between St Cuthbert’s Way and Hargreave Terrace 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 are being introduced.

These existing improvements will be complemented by the proposals within the part of the CPO Scheme at Gateway West.

7.7.4 It should be noted that Darlington’s economic strategy is underpinned by its

accessibility to national, regional and local transport networks. Its location on the ECML, adjacent to both the A1(M) and A66(T) and its proximity to Teesside International Airport provide easy access to the North East as well as to major conurbations including Leeds, Manchester and London. The text of the emerging local plan provides the most accessible discussion of these issues (extracts at SD36).

7.7.5 Darlington Station is not currently fulfilling its potential due to capacity issues and a lack of appropriate facilities. This adversely impacts on both mainline services, which provides national and regional connectivity including London, Scotland, the Midlands, Yorkshire and the North West, and those local services which either terminate or cross the mainline at Darlington. Nor is the station currently a suitable gateway to the City Region, with a lack of retail facilities compared to other similar stations across the network, and with accessibility and connections issues which can be significantly improved. Railway stations can play an important role in the promotion of an area, given that they often provide the first impression to visitors. The Authority is convinced that the passenger experience and the facilities offered by the Station should be representative of the economic ambitions of the Borough and the transformative economic growth which is being delivered in the wider Tees Valley City Region.

#### *Quantifiable Benefits*

7.7.6 It is the benefits of the comprehensive scheme, rather than the Gateway, which are most readily quantifiable. The economic benefits comprise: -

Journey Time Benefits, leading to User Benefits, Non-User Benefits and Revenue Benefits;

Reliability and reduced Rail Delay Payment Benefits; and

Wider Economic Impacts arising from Darlington being better served by train services so, for example, attracting and retaining businesses and jobs more effectively.

7.7.7 Based on these considerations, the overall Present Value of Benefits (PVB) for the preferred option is £209.53 million (2010 prices). (Updated Business Case, Section 3.43.5, page 18).

7.7.8 Social benefits are expected from greater access to travel for all users of different abilities, and environmental benefits, for example the provision of modern, high-quality

facilities within an improved public realm, that will benefit both local residents and users.

7.7.9 The wider economic impacts were assessed over a 20-year period and the analysis indicated that the preferred option could deliver wider economic impacts of around £31.0 million (2010 prices).

Work undertaken for the Darlington Station Masterplan identified that enhanced local services could provide an additional £287.3 million in benefit over 60 years (2010 prices), although this figure has not been included in the economic analysis at this time.

7.7.10 It is already clear that the CPO Scheme proposals, and more particularly the Railway Improvements facilitated by the Station Gateway, will provide “High” value for money, based on the categories set out the DfT Value for Money Framework. *“The analysis to date provides confidence that even with further refinement, there is considered to be enough headroom to ensure this remains the case”* (Updated Business Case, page 19)

7.8 The acquiring authority considers that the CPO Scheme for Darlington Station improves equality and significantly benefits users of the station who share protected characteristics (see section 3.13, on the Public Sector Equality Duty).

7.9 The Department for Transport supports the CPO Scheme, having noted in its letter of 22 July 2021 that *‘in June 2020 the Department confirmed the Government’s commitment to the Darlington Station scheme with the approval of £8.7m of funding to progress design work on the project’*. This funding represents a Railway Network Enhancements Pipeline (‘RNEP’) “decisions to design” which is stage 3 of a 5-stage process, with the next step being “decision to deliver”.

7.10 Failure to provide the CPO scheme will result in:

- continued constraints in safe and efficient access to Darlington Station by the full range of users;



- delays in investment in station fabric (including the setting of the listed grade II\* station building)
- an inability to adapt to foreseeable changes in main line rail services;
- an inability to significantly improve the efficiency of regional travel by rail (the CPO Scheme is a catalyst for addressing this issue by addressing capacity constraints on the ECML north of York)
- an inability to significantly improve the efficiency of local travel by rail (the CPO Scheme is a catalyst for providing new services from Darlington to destinations in the Tees Valley and Bishop Auckland);
- an inability to better integrate rail services with other modes of transport; and
- difficulty in providing a station that will be sustainable in terms of planning and transport policy.

*Other means of achieving the purpose of the CPO*

7.11.1 The CPO Scheme has a complex land requirement. Not only does the proposal contain two areas of land, either side of the station, each area also comprises a significant number of plots, in a wide range of ownerships, tenures and uses, and is located in a busy urban area with a long history of commercial and public services activity.

7.11.2 The land requirement must also be secured within a short timeframe if the currently available funding opportunities are to be utilized. There has been a fortunate convergence of interest of the Authority, TVCA and Network Rail in improving the station at this time, working towards the completion of an improved station in advance of the 2025 bicentenary of the Stockton and Darlington Railway – the birth of the modern railway.

7.11.3 Bearing the above factors in mind, it is considered that alternatives to compulsory acquisition of land interests – voluntary acquisition by private treaty – although successful to a degree (see section 6) will not alone secure the land requirement in a reasonable timeframe, and probably not at all.

### *Human Rights*

7.12.1 In considering the use of its compulsory purchase powers, the acquiring authority has taken into account and considered the provisions of the European Convention on Human Rights (“ECHR”).

7.12.2 The acquiring authority’s consideration of the Human Rights effects of making the CPO is set out in section 9 of this Statement, where the authority concludes that the public benefits of the CPO Scheme which are unlikely to be realised without compulsory acquisition of the CPO Land, outweigh the loss which will be suffered by the existing landowners. The CPO follows existing legislative provisions in respect of the making of compulsory purchase orders, and the payment of compensation and, as such, the acquiring authority considers the promotion and implementation of the CPO to be compatible with the ECHR.

7.12.3 In the absence of an agreement, the payment of compensation will be settled by a referral to the Upper Tribunal (Lands Chamber).

7.13 The acquiring authority considers there is a compelling case in the public interest for the compulsory acquisition of the CPO Land because the CPO Scheme if implemented will provide a much-needed station interchange, as a precursor to further station improvements, and the Scheme is not one that could be implemented by agreement.

## **8 Deliverability**

8.1 The CPO Scheme benefits from £25m funding approved by TVCA Cabinet, part of which has already been committed and drawn on by the acquiring authority to meet design and planning requirements, the CPO process, and land acquisition which has been acquired to-date by agreement.

8.2 The CPO Scheme is managed by officers of TVCA and DBC, with advisory input from external specialists.

8.3 The acquiring authority has significant experience of delivering capital projects through design and build frameworks, as detailed in the Statement of Reasons. This is through design and build or traditional methods, utilising external consultants and contractors, and the authority's in-house delivery teams.

8.4 Based on the integrated project plan, it is expected that a "Decision to Deliver" for the comprehensive scheme (the CPO Scheme together with the Network Rail Station and Railway Improvements) will be taken by early/mid 2022, meaning that the main construction contract for the Operational Railway and Station Enhancements elements is likely to run for a period of around 30 months from mid/late 2022 to late 2024.

8.5 As the CPO Scheme, particularly the new MSCP, has a key interface with the Network Rail Station and Railway Improvements, it needs to commence first and reach an advanced stage of construction to enable a tie-in with the existing station via the footbridge link. The start dates will depend on the length of time to complete any CPO process required, with an overall construction period expected of around 18 months. The anticipated timeline would see construction of these elements from mid/late 2022, subject to adjustment through the CPO process, until early/mid 2024.

8.6 The Integrated Project Plan for the Comprehensive Scheme is a 'live' document and is updated regularly to provide an accurate and integrated picture of progress and dependencies for the project. The Project Managers are responsible for ensuring the plan is reviewed and updated on a monthly basis, and ensuring that any impacts on interdependencies involving changes or risks to achieving key milestone dates are brought to the attention of the other party, and to the Programme Board as part of the quarterly meeting cycle. All proposed revisions to the project plan are issued to the Programme Board for approval.

8.7 The costs of compulsory purchase, including the compulsory purchase order procedures and compensation payable to owners of any land interests, will be met by the acquiring authority in accordance with its funding arrangements with TVCA.

8.8 Planning Permission has been granted for the CPO Scheme. The acquiring authority considers these permissions are fully capable of implementation in accordance with all attached conditions within the estimated budgets.

8.9 A range of orders under the Road Traffic Act 1984, stopping-ups, dedications to public highways use by the Authority, and like measures, together with directions and agreements, all under the Highways Act 1980 will be required to support the CPO Scheme. These will be processed in tandem with the progress of the land acquisition programme, and will be subject in most cases to public consultation.

8.10 With regard to Gateway East, an application for a stopping-up order under section 247 of the Town and Country Planning Act 1990 has been made to the Secretary of State for Transport. It is expected that any objections to the draft order will be heard at the same time as objections to the CPO (see section 11, below)

8.11 Operational land of Network Rail is affected by the CPO. Network Rail lodged a holding objection (as per regulatory requirements for operating and maintaining the railway infrastructure). However, following the agreement of terms with the acquiring authority, Network Rail is about to withdraw its objection and is working closely with the authority to facilitate the CPO Scheme.

*Network Rail Developments (Station and Railway Enhancements)*

8.12 Given the complexity of the comprehensive scheme, this is included in Network Rail's National Project Assurance Review (PAR) Programme. It should be noted that the PAR has been implemented with the agreement of the DfT's Infrastructure Projects Authority and regular monitoring reports are submitted to the DfT.

8.13 The Station Enhancements will engage the national Station Change procedure, for when a development entails changes to a station lease area, physical or operational changes to a station, or changes that affect the content or drafting of Station Access Conditions and Annexes. This is a procedure governed by the regulated 'station access conditions' for each station. At franchised stations, the conditions are part of the station leases granted by Network Rail, and in the access arrangements between the train operator tenant and other train operators who use the station. Given the nature of this scheme, the regulatory requirements will also need to be satisfied by making a Station Change Proposal, securing approval of all relevant parties and registering the approved change with the ORR (Office of Rail and Road).

*Funding Arrangements and Financial Case*

8.14 As set out in the Outline Business Case, base outturn costs for the comprehensive scheme (adjusted for risk and inflation) are £105m. Costs were estimated at Q1 2020 factor prices, as set out in detail in the Financial Case. These estimates include all costs associated with scheme preparation and construction. The costs presented in the Financial Case include real cost adjustments to allow for inflation and an allowance for risk, in the form of a quantified risk assessment (QRA). (Outline Business Case, 56)

8.15 Some additions and amendment in design and increased allowances for further risk provision and contingencies have necessitated upwards revision of cost estimates. These increased costs are considered proportionate and affordable in relation to the issues identified in the Strategic Case and the predicted benefits of the scheme assessed in the Economic Case. The scheme cost has been derived in a robust way using information from current and recently completed projects. The works have also been quantified, based on the current scheme designs.

8.16 The costs of maintaining the proposed new infrastructure at Darlington station are likely to be broadly neutral due to the fact the amount of maintainable assets is not expected to change significantly (Outline Business Case, 89). However, an allowance for additional operating and maintenance costs has been included in the Economic Case, at a rate of 1% of the base capital costs for the first 20 years after opening and 2% of the base capital costs thereafter.

8.17 A contribution of £25m was agreed at the TVCA Cabinet meeting in November 2018 and later confirmed as part of the agreement to the Tees Valley Investment Plan in January 2019. The funding has already been used by the acquiring authority to develop the CPO Scheme to this point.

8.18 As the project has developed, elements of the project and the scope have changed to ensure the best solution can be delivered within the constraints and requirements identified by all parties. The scope of the CPO Scheme has changed to include some of the main rail station elements and as such partners are refining the

project budget for finalisation and submission to the Department for Transport's Rail Network Enhancement Pipeline (RNEP) process for "decision to deliver".

8.19 The overall cost envelope of the 'comprehensive scheme remains unchanged at this point from the cost estimate of £105m in the Outline Business Case.

8.20 The Department for Transport has confirmed in its letter of 22 July 2021 that '*In addition to the funds already announced, the Department anticipates that further funding from the RNEP will be made available to deliver the scheme, provided it has the required consents, and continues to provide value for money.*'

### *Delivery plans*

8.21 The acquiring authority intends to acquire all the interests in the CPO land (unless it is expressly stated in the CPO Schedule) either by agreement or by exercising its compulsory purchase powers as set out in this statement. The acquiring authority will pursue the acquisition of all qualifying interests in accordance with the Acquisition of Land Act 1981 to secure the implementation of the CPO scheme. The acquiring authority considers the interests and rights in the CPO Land currently vested in third parties do not present an impediment to the deliverability of the CPO scheme if the correct statutory procedures are followed.

8.22 Temporary car parking sufficient to meet the parking requirements of vehicles displaced from car parks decommissioned as part of the CPO Scheme will be available on the former Darlington Cattle Market site. This parking will be available until such time as the replacement parking within the MSCP is available. The acquiring authority owns the freehold to and has vacant possession of the former Darlington Cattle Market site. Planning permission for this temporary change of use has been applied for and is anticipated within the forthcoming weeks (according to the planning cycle).

8.23 As planning permission has been obtained for the CPO scheme it is not anticipated there will be any planning impediments to the scheme proceeding.

8.24 It is intended that roads will be stopped-up and highway improvements provided as part of the CPO Scheme, as detailed in the plans for the respective Gateway elements, and in section 11.

### *Compensation*

8.25 In the event of the CPO being confirmed by the Secretary of State, the assessment of compensation will be in accordance with the “compensation code”. The acquiring authority has allocated capital funding from existing resources for the acquisition of the land. This funding will enable the acquiring authority to complete the compulsory acquisition within the statutory period following confirmation of the CPO.

8.26 Given the progress of the comprehensive scheme funding through the RNEP the acquiring authority is confident, that there will be no physical, planning or legal impediments to the CPO scheme proceeding if the required land can be acquired.

## **9 Human Rights Considerations**

9.1.1 In deciding to make and promote the CPO the acquiring authority has taken into account the provisions of the ECHR and the Human Rights Act 1998, and in particular section 6 of the Human Rights Act 1998, which prohibits public authorities from acting in a way which is incompatible with the ECHR.

9.1.2 In considering the proportionality of promoting the CPO, the acquiring authority has amongst other things borne in mind the following considerations.

- That no more land than is required to facilitate the CPO Scheme has been included in the CPO.
- That there is no viable alternative in a foreseeable period to obtaining title to the CPO Land other than by way of compulsory acquisition.

– That acquisition of freehold title to the CPO Land is necessary to facilitate the CPO Scheme, as other legal procedures would not provide clear and secure methods for ensuring control of and in perpetuity or for the adoption of the required parts of the CPO Land.

– That the CPO is made and will proceed under a statutory procedure with built-in safeguards that protect the rights of landowners and other persons, including the right to challenge decisions in court and otherwise with the entitlement to fair compensation.

9.2 The acquiring authority considers that promoting the CPO does not unlawfully derogate from or constitute any unlawful interference with relevant human rights protected by the ECHR. These rights under Article 1 to the First Protocol, Article 6 and Article 8, are considered by the authority as they relate to the compulsory acquisition of interests in the CPO Land and of the rights of various adjacent landowners which will be overridden.

9.3 In considering the use of compulsory purchase powers, the acquiring authority has first taken into account and considered the provisions of Article 1 of the First Protocol of the ECHR, which provides a right to the peaceful enjoyment of a person's possessions and protection of property. It is acknowledged that a purchase by compulsion will not breach this right where it:

- Is authorised by law;
- Is proportionate;
- Can be demonstrated to be in the public interest; and
- Landowners and others with an interest in the land are appropriately compensated.

9.4 Paragraph 12 of the DHCLG Guidance draws particular attention to the provisions of Article 1 of the First Protocol to the Convention.

The main provisions of Article 1 relevant to the current context are that:



*‘Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.’*

*‘The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest ....’*

9.5 Section 226(1)(a) of the 1990 Act, which authorises the acquiring authority to acquire land compulsorily subject to the procedures contained in the Acquisition of Land Act 1981, provides lawful authority.

9.6 The acquiring authority considers that compulsory acquisition of the CPO Land is necessary given the dearth of alternatives to securing title in a timely fashion to the land required for the Scheme, and that if and where there is interference with protected rights by acquisition of the CPO Land, the public benefit and need for the CPO Scheme outweighs any private loss arising from the acquisition.

9.6 This is particularly so given that owners and persons directly affected by the Order will also be entitled to full compensation (mainly by virtue of the Land Compensation Act 1965, and the rules thereunder) for any property acquired from them compulsorily. Claimants will also usually have the right to compensation for other losses (for example, specific additional payments for ‘home loss’, or disturbance) and professional costs and costs of removal.

9.7 In all cases where business interests are affected, but also where residential owners are affected, and in particular those from whom objections to the CPO have been received (see below, section 10) the acquiring authority considers that there will be no violation of the rights of such persons under Article 1 to the First Protocol, as the steps taken are lawful, in the public interest, proportionate and capable of being compensated.

#### *Article 6 of the Convention*

9.8 Article 6 provides that:

"In the determination of his civil rights and obligations or of any criminal charge against him everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law".

9.9 The acquiring authority notes that the statutory procedures require that all those likely to be affected by the CPO are notified and given an opportunity to object. If there are objections, the DHCLG will arrange a public local inquiry (or other forum) so that objections can be heard. The legislation also provides for statutory challenge in the High Court to the decision of the Secretary of State or the inspector to which the decision is delegated if that decision is to confirm the CPO. Ultimately, where a CPO becomes operative, persons who have land acquired, or whose other interests, for example way leaves, rights to light or restrictive covenants, may refer disputes over compensation to the Lands Chamber of the Upper Tribunal.

9.10 The acquiring authority therefore considers that the steps available to landowners and other affected parties satisfy the requirements of Article 6.

#### *Article 8 of the Convention*

9.11 Where a compulsory order is made for the acquisition of property, the property in question may be a person's home. In such circumstances Article 8 of the Convention will be engaged.

9.12 The article may be engaged where residential property and/or the rights of access to such property are investigated or extinguished or subject to interference by the acquiring authority.

9.13 Article 8 of the Convention provides that:

*"(1) Everyone has the right to respect for his private and family life, his home and his correspondence.*

*"(2) There shall be no interference by a public authority with the exercise of this right except such as 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 the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others".*

9.14 Article 8(1) is a qualified right. Interference with the rights afforded by Article 8(1) can be justified under Article 8(2), in appropriate cases.

9.15 Section 226(1)(a) of the 1990 Act, which authorises the acquiring authority to acquire land compulsorily subject to the procedures contained in the Acquisition of Land Act 1981, provides lawful authority.

9.16 In the particular circumstances of this case, the acquiring authority is also of the view that the compulsory acquisition of the CPO Land will not conflict with the rights provided by Article 8(1) of the Convention, as the qualifications in Article 8(2) apply, in that interference with the protected rights are necessary in a democratic society for public safety or the economic well-being. The authority has engaged with all residential occupiers on this basis (see paragraphs 6.5.2-6.6.3 above).

## 10 Acquiring Authority's Response to Objections

10.1 Below is a list of the objections submitted to the CPO. In relation to each objection is set out the acquiring authority's response.

Obj no.	Plot No(s).	Substance of Objection	Acquiring Authority's Response ('section' means a section of this Statement)
1	27 (United Parking)	<ol style="list-style-type: none"> <li>1. The economic, environmental and social benefits of the CPO Scheme have not been identified</li> <li>2. The causal link between such benefits and CPO Scheme are not identified</li> <li>3. There is no planning proposal or an</li> </ol>	<p>1 and 2 - the need for and benefits of the CPO Scheme have been identified and explained - section 3 and 7. Evidence will be given by the relevant specialist witnesses, see section 10.3.</p> <p>3. Planning Permission for the CPO Scheme has been granted. See section 4.</p>

		<p>(implementable) planning permission</p> <p>4. The acquiring authority has failed to identify full funding to implement the CPO scheme (DfT funding has not been confirmed)</p> <p>5. There is a failure to identify that scheme is financially viable</p> <p>6. Attempts to acquire by private treaty have been inadequate</p>	<p>4. This matter is dealt with in section 8. The funding sources have been 'identified' and good progress is being made to securing all funds required in the short term both for the CPO Scheme and the other major improvements. Evidence will be given by the relevant specialist witnesses, see section 10.3.</p> <p>5. The Scheme is viable, see sections 7 and 8. Evidence will be given by the relevant specialist witnesses, see section 10.3.</p> <p>6. The acquiring authority has made reasonable attempts to negotiate, see section 6.</p>
2	12	<p>1. There is no need to acquire the property for the CPO Scheme</p> <p>2. Acquisition would severely affect business and harm the occupants' livelihood</p> <p>3. A family home is threatened by the Scheme</p> <p>4. Loss of the business would be the loss of a facility integrated with the local community</p>	<p>1. The plot is required for the Scheme, as explained in sections 3 and 7.</p> <p>2, 3 and 4. Equalities and HR assessment has been carried out, both for the CPO Scheme and as part of the planning application process. Although such adverse impacts are possible, the acquiring authority considers that the proposed acquisition is justified in the public interest.</p>
3	10 (ATS)		<p>Objection now withdrawn (voluntary sale)</p>
4	15,31,36, 37, 42 (LNER)		<p>Objection now withdrawn</p>
5	43 (Nicola Allan, as advocate)	<p>1. Legal impediment - lack of expediency/Objection by Network Rail</p> <p>2. The causal link between this part of the CPO Scheme and plot 43 not identified (lack of scheme definition)</p>	<p>1. Network Rail is withdrawing its objection and is supportive of the CPO Scheme.</p> <p>See sections 3 and 7. Evidence will be given by the relevant specialist witnesses, see section 10.3.</p>

<p>5</p>	<p>43 (Nicola Allan, as advocate)</p>	<p>causing uncertainty why the plot in question is needed)</p> <ol style="list-style-type: none"> <li>3. The acquiring authority admits it is difficult to quantify benefits of the Gateway, so the need for this part of the CPO Scheme is brought into question</li> <li>4. There is no planning permission for the CPO Scheme [and development plan support is not sufficient to support a compelling case]</li> <li>5. Neighbourhood benefits though desirable are not necessarily sufficient justification</li> <li>6. The link between good transport links and improvements in appearance are nebulous</li> <li>7. An alternative scheme design (based on need, not what is 'desirable') could avoid acquisition of plot 43</li> <li>8. The property is a Home as well as a business – therefore articles 8 and 1 of the First Protocol of the ECHR may be breached (no overriding interest shown)</li> <li>9. The Town Fund is uncertain and does not demonstrate security of funding</li> <li>10. Lack of "justification or quantification" of social benefits, which may therefore affect viability.</li> </ol>	<p>3. 1 and 2 - the need for and benefits of the CPO Scheme have been identified - section 3 and 7. There is quantification of benefits for the Scheme facilitated by the CPO. Evidence will be given by the relevant specialist witnesses, see section 10.3.</p> <p>4. Planning permission is now granted for the CPO scheme.</p> <p>5. See section 4, 5 and 7. Evidence will be given by the relevant specialist witnesses, see section 10.3.</p> <p>6. Ditto.</p> <p>7. The CPO Scheme is what is needed. See sections 3, 4 and 7. Evidence will be given by the relevant specialist witnesses, see section 10.3.</p> <p>8. HR assessment has been carried out, and rights under article 8 and article 1 of the first protocol. Although such rights are likely to be engaged, the acquiring authority considers that due to several considerations (see section 9) the proposed acquisition is justified in the public interest, with any derogations being fair and proportionate.</p> <p>9. The CPO Scheme does not rely on the Towns Fund.</p> <p>10. There are clear social benefits promised by the CPO Scheme, and the comprehensive scheme which it will facilitate. Viability is not in question (see sections 7 and 8). Evidence will be given by the relevant specialist witnesses, see section 10.3.</p>
<p>6</p>	<p>15, 22, 26, 27, 28, 30, 31, 36, 37, 42, Network Rail</p>		<p>Objection now withdrawn</p>

7	Northern Power Grid Holdings ('NPG')	The proposed CPO Scheme/CPO does not safeguard NPG's apparatus in the area	The acquiring authority is negotiating an undertaking with NPG to safeguard the latter's apparatus and rights.
8	27, 28 (Dewton Ltd)	<ol style="list-style-type: none"> <li>1. Insufficient information has been provided to enable a proper understanding of why the land has been included in the CPO.</li> <li>2. No evidence to demonstrate the advantage in using the objector's land as opposed to alternative sites.</li> <li>3. No evidence to support the need for an additional 234 parking spaces (given the reduction in demand attributable to the Covid-19 pandemic)</li> <li>4. No explanation as to why the plot uses cannot continue as part of the Scheme</li> <li>5. No formal engagement, no offer.</li> </ol>	<p>1. and 2. Site is required for a MSCP for rail users and there are no alternative sites any closer to the ECML. See sections 3 and 7. Evidence will be given by the relevant specialist witnesses, see section 10.3.</p> <p>3. See section 4, especially the Systra demand study, and section 7. Evidence will be given by the relevant specialist witnesses, see section 10.3.</p> <p>6. See section 7 and section 4. Evidence will be given by the relevant specialist witnesses, see section 10.3.</p> <p>5. Negotiations are being undertaken and a formal offer has been made.</p>
9	14	Residential property, includes former business kitchen, converted to full residential at considerable expense and effort. 10% uplift insufficient.	<p>Equalities and HR assessment has been carried out, especially of rights under article 8 and article 1 of the first protocol. Although such rights are likely to be engaged, the acquiring authority considers that due to several considerations (see section 9) the proposed acquisition is justified in the public interest, with any derogations being fair and proportionate.</p> <p>Negotiations are being undertaken and a formal offer has been made.</p>

10.2 Objections received and involving the following topics will also be responded to by relevant specialists who will prepare separate proofs of their evidence to be submitted to the inquiry, in accordance with the CPO inquiry timetable.

10.3 The following proofs of evidence will deal with the issues indicated raised in objections.

(i) Economic, Social and Environmental need/viability of the CPO scheme:

Strategic Transport Priorities: Tom Bryant (TVCA)

Business Case: Jonathan Spruce (Director of Fore Consulting)

(ii) Design and Planning Justification:

Joshua Treverton, Architect (Napper East);

Dominic Waugh, Planning (Fairhurst)

(iii) Technical Operation and need for peripheral (including Gateway West) plots for the CPO Scheme:

Andrew Casey (Highways Officer with the acquiring authority)

David Colley, Highways (Fairhurst)

(iv) Deliverability (funding and programme) of the CPO Scheme: Ian Stewart (Lead Officer with the acquiring authority)

## **11 The section 247 (Stopping-up) Order**

11.1 The areas of highway proposed to be stopped-up to enable the implementation of the CPO Scheme are shown on the stopping-up plan (SD42).

11.2 The acquiring authority has made application to the Secretary of State for Transport (National Transport Casework Team, reference NATTRAN/NE/247/4865) under section 247 of the Town and Country Planning Act 1990 for an order to stop-up the highways as indicated on the stopping-up plan as necessary to enable the

development to be carried out pursuant to the planning permission granted for the Gateway East part of the CPO Scheme.

11.3 A copy of the draft order as publicised by the Secretary of State for Transport can be seen in the Supporting Documents (SD42a and SD42b). The draft order has been available for inspection at Darlington.

11.4 The deadline for objections to the draft order is 5<sup>th</sup> November 2021. There have currently been [two] objections to the draft. Both objections are from utilities providers, namely Northern Gas Networks Limited and Virgin Media.

11.5 Unless withdrawn, it is anticipated by the acquiring authority that the objections will be considered on behalf of the Secretary of State at the same time as the inquiry into the CPO.

11.6 The acquiring authority is optimistic that the objections will be withdrawn, as the authority is working with the relevant utilities to protect apparatus and where necessary provide alternative for rights for apparatus affected.

11.7 However, should a hearing be required evidence to support the stopping-up will be given the witnesses indicated in section 14.

11.8 The stopping-up order if made by the Secretary of State will become operative on a day to be appointed.

## **12 Conclusion**

For the reasons set out in this Statement, the acquiring authority considers there to be a compelling case in the public interest and asks the Inspector to confirm the CPO to facilitate the redevelopment and improvement of the CPO Land.



## 13 Documents

13.1 The documents which the acquiring authority proposes to rely upon in evidence are listed in the Appendix to this Statement (Appendix of Supporting Documents)

13.2 Publications relied on or referred by the acquiring authority in presenting its case include the following documents.

*Guidance on Compulsory Purchase and Crichton Down Rules* (DHCLG, 2019)

*Corona virus (Covid-19): Compulsory Purchase Guidance* (DHCLG, May 2020;

<https://www.gov.uk/guidance/coronavirus-covid-19-compulsory-purchase-guidance>)

Town and Country Planning Act 1990, parts IX and X

Acquisition of Land Act 1981

Compulsory Purchase Act 1965

Land Compensation Act 1961

Land Compensation Act 1973

Compulsory Purchase (Inquiries Procedure) Rules 2007 (as amended)

Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004

*Technical Guidance on the Public Sector Equality Duty: England* (Equality and Human Rights Commission, 2021)

*Planning and the GDPR* (Planning Advisory Service, 2021)

<https://www.local.gov.uk/sites/default/files/documents/20210622%20-%20Planning%20and%20GDPR%20PAS%20guide.pdf>

*Guide to the UK General Data Protection Regulation* (ICO) <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/>

## 14 Statement and Proofs of Evidence

*Compulsory purchase public inquiry procedure rules*

14.1 This Statement of Case is made in discharge of the acquiring authority's obligations under rule 7 of The Compulsory Purchase (Inquiries Procedure) Rules 2007.

14.2 Any person who is entitled to appear at the public inquiry under rule 14 of the Compulsory Purchase (Inquiries Procedure) Rules 2007 and who intends to give evidence to the inquiry must send to the inspector and the acquiring authority:

- a copy of their proof of evidence; and

- where the statement of evidence contains more than 1,500 words

a written summary of the proof (known as a summary proof) together with any supporting documents no later than 3 weeks before the date set for the inquiry or a date set out in the inquiry timetable (see rule 15(1)-(3) of the Compulsory Purchase (Inquiries Procedure) Rules 2007).

*Proposed Witnesses for the acquiring authority*

(i) Economic, Social and Environmental need/viability of the CPO scheme:

Strategic Transport Priorities: Tom Bryant (TVCA)

Business Case: Jonathan Spruce (Director of Fore Consulting)

(ii) Design and Planning Justification:

Joshua Treverton, Architect (Napper East);

Dominic Waugh, Planning (Fairhurst)

(iii) Technical Operation and need for peripheral (including Gateway West) plots for the CPO Scheme, and for the stopping-up order (Gateway East):

Andrew Casey (Highways Officer with the acquiring authority)

David Colley, Highways (Fairhurst)

(iv) Deliverability (funding and programme) of the CPO Scheme: Ian Stewart (Lead Officer with the acquiring authority)

## 15. Additional Information

### *Contact details*

15.1 For any enquiries relating to the CPO:

The first point of contact at the acquiring authority is:

Patrick Saunders, Legal Services, Darlington Borough Council, Town Hall,  
Darlington DL1 5QT; email: Patrick.Saunders@darlington.gov.uk

Owners and tenants of properties affected by the CPO who wish to negotiate a sale and/or relocation or discuss matters of compensation/valuation should contact:

Richard Adamson, Estates Officer, telephone 01325 406318.

### *Publicity and Deposit points*

15.2 This Statement of Case is a public document and is available for inspection together with the documents listed in the appendix below (unless referred to as 'excluded'), free of charge, on the authority's website at Darlington Borough Council - Darlington Station Gateway compulsory purchase order 2021:

<https://www.darlington.gov.uk/environment-and-planning/estates-and-property/darlington-station-gateway-compulsory-purchase-order-2021/>

and at the following address:

Dolphin Centre, Horse Market, Darlington DL1 5RP

(between the hours of 10.00AM and 4.00PM Mondays to Fridays with the exception of bank holidays).

15.3 Additional copies of published information may be obtained from:

National Planning Policy Framework

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

DHCLG CPO Guidance

<https://www.gov.uk/government/publications/compulsory-purchase-process-and-the-crichel-down-rules-guidance>

Acquisition of Land Act 1981

<https://www.legislation.gov.uk/ukpga/1981/67/contents>

Town and Country Planning Act 1990

<https://www.legislation.gov.uk/ukpga/1990/8/contents>

Planning and the GDPR

<https://www.local.gov.uk/sites/default/files/documents/20210622%20-%20Planning%20and%20GDPR%20PAS%20guide.pdf>

Darlington Planning Policy (Core Strategy and Emerging Local Plan)

<https://www.darlington.gov.uk/environment-and-planning/planning/planning-and-environmental-policy/>

## **APPENDIX - LIST OF SUPPORTING DOCUMENTS**

SD1 The CPO

SD2 Map referred to in the CPO

SD3 Officer's Report to Cabinet (redacted as to information excluded from public disclosure)

SD4 Resolution of the acquiring authority (12<sup>th</sup> January 2021)

SD5 Statement of Reasons for making the CPO (as an enclosure to the Statement of Case)

SD5a Appendices (as an enclosure to the Statement of Case)

SD6 Outline Business Case for the CPO Scheme and related station and railway improvements

SD7 The TVCA Darlington Station Masterplan (2016)

SD8 Scheme Overlay, showing adopted highways etc.

### **Planning Application Documentation**

#### **Gateway East**

SD9 Gateway East, Planning Officer Report 21/00688/DC

SD10 Gateway East Planning Permission 21/00688/DC

SD11, SD11a, SD11b Design and Access Statement (Gateway East) (3 parts)

SD12 Transport Assessment part 1 (Gateway East),

SD12a Transport Assessment (Gateway East) part 2 (drawings)

SD13 General Site Plan

SD14 The MSCP site plan

SD15 The Landscape General Arrangement Plan

SD16 Plan of Highways to be stopped-up and created

SD17 Heritage Statement (Gateway East)

SD18 Non-Motorised User Plans

SD19 Systra MSCP Demand Study (Gateway East)

SD20 The works general arrangement plan

SD21 Demolition Plan

SD22 Gateway East, Improvements and CPO plot overlay

SD23 Gateway East, Proposed Access Arrangements

SD24a and SD24b Swept path analyses (Garbutt Square)

### **Gateway West**

SD25 Gateway West planning permission 21/00691/DC

SD26 Planning Officer Report (Gateway West)

SD27 Design and Access Statement (Gateway West)

SD28 Highway Engineering Layout (Gateway West)

SD29 Heritage Assessment (Gateway West)

SD30 Gateway West Amended Landscape Masterplan

SD31 Gateway West, Additional Appendices (Plans of Scheme Layout, Non-Motorised Users, Swept Path Analysis, new highways, design options)

SD31a Tracking Drawings

SD32 Listed Building Consent Location Plan and Elevations

SD33 Gateway West, Listed Building Consent 21/00750/DCLB

### **Planning Policy Documentation**

SD34 Extracts Darlington Saved Local Plan (1997, alteration 2001)

SD34a Local Plan Saved Policy Schedule (2007)

SD35 Darlington Core Strategy 2011

SD36 Extracts of emerging Darlington Local Plan 2016-2036 Proposed Submission  
Local Plan (2020)

SD37 National Planning Policy Framework 2021

**Other Documentation**

SD38 Updated Business Case for the CPO Scheme and related station and railway  
improvements (October 2021)

SD38a-d (appendices, excluded from public disclosure - confidentiality)

SD39 Letter from the Department of Transport to the acquiring authority (22 July 2021)

SD40 Equality Impact Assessment under the Equality Act 2010 (excluded from public  
disclosure - GDPR requirements)

SD41 Planning applications consultation report

SD42 Stopping-up Plan

SD42a Draft section 247 Stopping-up Order

SD42b Section 247 notice

SD43 Qualifying Land Interests: Status of Acquisitions (excluded from public  
disclosure - GDPR concerns)

SD44 List of objections and status of negotiations (excluded from public disclosure,  
GDPR concerns and confidentiality)

SD45 List of Statutory Undertakers served with notice of CPO