

The Borough of Darlington (Darlington Station Gateway)  
Compulsory Purchase Order 2021

Town and Country Planning Act 1990  
Acquisition of Land Act 1981  
Compulsory Purchase Inquiries Procedure Rules 2007

**Proof of Evidence of**

**Dominic Waugh**

**Land Use Planning**

December 2021

## **Contents**

1. Introduction
2. Scope of Evidence
3. Planning Policy Overview
4. Planning Applications
5. Objections
6. Conclusion

## **Appendices**

DW1 – Drawing to Represent Proposed Development under Application  
21/00691/DC – Gateway West

DW2 – List of Documents and Drawings from Application 21/00691/DC – Gateway  
West

DW3 – Condition Overview of Application 21/00691/DC – Gateway West

DW4 – Drawing to Represent Proposed Development under Application  
21/00750/DCLB

DW5 – Condition Overview of Application 21/00750/DCLB

DW6 – Drawings to Represent Proposed Development under Application  
21/00688/DC – Gateway East

DW7 - List of Documents and Drawings from Application 21/00688/DC – Gateway  
East

DW8 – Condition Overview of Application 21/00688/DC – Gateway East

## **1. INTRODUCTION**

### **Qualifications and experience**

- 1.1 My name is Dominic Waugh. I am employed by Fairhurst as a Chartered Town Planner and Technical Director.
- 1.2 My academic and professional qualifications are a BA (Hons) in Town Planning from Newcastle University and a Diploma in Town Planning from Newcastle University. I have also been a Chartered Member of the Royal Town Planning Institute since September 2008. Similar commissions where I have provided planning consultancy advice include a public realm improvement scheme on behalf of Redcar and Cleveland Borough Council and rail freight developments for Freightliner and DB Cargo.
- 1.3 I am required by the RTPI Code of Professional Conduct to exercise fearlessly and impartially my independent professional judgment to the best of my skill and understanding and not make or subscribe to any statements or reports which are contrary to my own bona fide professional opinions.
- 1.4 The evidence I have prepared in this proof is true to the best of my knowledge and is both independent and impartial. It has also been prepared and is given in accordance with the Code of Conduct of my professional body, The Royal Town Planning Institute. I can confirm that the opinions expressed in the evidence on the matters to which they refer are my true, honest and professional opinions.
- 1.5 I understand my duty to the Inquiry to assist it with matters within my expertise and I believe that I have complied with that duty.

### ***Involvement in the project***

- 1.6 The CPO Scheme is described in Chapter 4 of the Proof of Evidence of Jonathan Spruce. In order to deliver the CPO Scheme, 2 planning applications and 1 listed building application were submitted to Darlington Borough Council. All applications have subsequently been approved.

## Gateway West

1.7 A planning application for the development of Gateway West proposed the following:

- Demolition of Hogan's Public House, 97 Pensbury Street, 137 – 139 Victoria Road, 1 Waverley Terrace, and 1 – 4 Park Lane and engineering operations in the form of highway and associated infrastructure works to the west of the station to connect Pensbury Street to Park Lane, the creation of bus stops and lay-bys;
- A new highway access and turning facility to the rear of Pensbury Street;
- A new vehicular access route to the existing car park off Park Lane, including the partial demolition of the existing boundary wall to facilitate this access and creation of a new turning facility to Waverley Terrace; and
- Associated public realm landscaping works.

1.8 To deliver these works, the following 2 applications were submitted to Darlington Borough Council. I acted as lead planning consultant for both applications:

21/00691/DC - Demolition of Hogan's Public House, 97 Pensbury Street, 137-139 Victoria Road, 1 Waverley Terrace and 1-4 Park Lane together with highway and ancillary infrastructure works including creation of bus stops and lay-bys, new highway access and turning facility at rear of Pensbury Street, partial demolition of boundary wall to facilitate new vehicular access to existing car park, turning facility to Waverley Terrace and associated public realm landscaping works (amended landscape masterplan and cross section, additional appendices to design and access statement and further supporting information received 11 August 2021); and

21/00750/DCLB - Listed Building Consent for the partial demolition of car park boundary wall and the reuse of existing bricks to create 2 no. entrance pillars (amended plan received 23 September 2021)

## **Gateway East**

- 1.9 A planning application for the development of Gateway East proposed the erection of a 672 space Multi Storey Car Park, transport hub, station entrance, concourse, and public realm improvements.
- 1.10 To deliver these works the following planning application was submitted to Darlington Borough Council:

21/00688/DC - 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 (Additional Bat Survey Report received 27 August 2021).

## **Temporary Car Park**

- 1.11 As planning application reference: 21/00688/DC will result in the temporary loss of car parking during the construction phase, the following planning application has also been submitted to Darlington Borough Council:

21/01244/DC – Construction of a temporary car park and associated works at Former Farmers Cattle Market, Clifton Road, Darlington.

- 1.12 Planning application 21/01244/DC is currently pending determination. The application site is within the freehold ownership of Darlington Borough Council. I am acting as lead planning consultant for this planning application.

## 2. SCOPE OF EVIDENCE

2.1 The Guidance on Compulsory Purchase Process (2021) (**“the Guidance”**) identifies two specific planning matters to be addressed in consideration of the case for the CPO, namely:

- (i) Whether the need for planning permission or other consent represents an impediment to implementation of the Scheme (para. 15); and
- (ii) Whether the purpose for which the land is being acquired fits in with the adopted Local Plan for the area or, where no such up to date Local Plan exists, with the draft Local Plan and the National Planning Policy Framework (para. 106).

2.2 Paragraph 15 of the Guidance states:

**15. How does the acquiring authority address whether there are any other impediments to the scheme going ahead?**

The acquiring authority will also need to be able to show that the scheme is unlikely to be blocked by any physical or legal impediments to implementation. These include:

- the programming of any infrastructure accommodation works or remedial work which may be required; and
- any need for planning permission or other consent or licence

Where planning permission will be required for the scheme, and permission has yet to be granted, the acquiring authority should demonstrate to the confirming minister that there are no obvious reasons why it might be withheld. Irrespective of the legislative powers under which the actual acquisition is being proposed, if planning permission is required for the scheme, then, under section 38(6) of the Planning and Compulsory Purchase Act 2004, the planning application will be determined in accordance with the development plan for the area, unless material considerations indicate otherwise. Such material considerations might include, for example, a local authority's supplementary planning documents and national planning policy, including the National Planning Policy Framework.

2.3 Paragraph 106 of the Guidance states:

**106. What factors will the Secretary of State take into account in deciding whether to confirm an order under section 226(1)(a)?**

Any decision about whether to confirm an order made under section 226(1)(a) will be made on its own merits, but the factors which the Secretary of State can be expected to consider include:

- whether the purpose for which the land is being acquired fits in with the adopted Local Plan for the area or, where no such up to date Local Plan exists, with the draft Local Plan and the National Planning Policy Framework

- 2.4 My evidence will demonstrate that the purpose for which the land is being acquired fits in with the adopted planning framework for the area and that there are no planning related impediments to implementation of the Scheme.
- 2.5 The scope of this evidence includes the adopted Development Plan; emerging planning policy; and main material planning considerations which are relevant to the land proposed to be acquired. The evidence also includes details of the planning process followed for the 4 applications referenced in Chapter 1 of this Proof of Evidence.
- 2.6 The economic, social and environmental benefits of the scheme are covered in Chapter 5 of the Proof of Evidence of Jonathan Spruce.
- 2.7 In Chapter 3, I provide an overview of the planning policy framework and its key themes.
- 2.8 In Chapter 4, I explain the details of the planning permissions and listed building consent granted to deliver the Scheme.
- 2.9 Finally, in Chapter 5 I will also respond to the objections to the CPO that raise planning issues.

### **3. PLANNING POLICY OVERVIEW**

3.1 The Adopted Development Plan for Darlington consists of the saved policies of the Local Plan (adopted 1997, alterations 2001) and the Core Strategy Development Plan Document (DPD) (Adopted 6 May 2011). The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these should be applied. The NPPF is a material consideration in planning decisions.

3.2 I consider that the most pertinent policies to the proposed developments are as follows:

#### National Planning Policy Framework 2021

- 8 – Promoting Healthy and Safe Communities
- 9 – Promoting Sustainable Transport
- 12 – Achieving Well Designed Places
- 16 – Conserving and Enhancing the Historic Environment

#### Saved Policies of the Borough of Darlington Local Plan, 1997

- E12 – Trees and Development
- E13 – Tree Preservation Orders
- E14 – Landscaping of Development
- E37 – Enhancement of the Built Environment
- T9 – Traffic Management and Road safety
- T44 – Passenger Railways

#### Darlington Core Strategy Development Plan Document 2011

- CS1 – Darlington's Sub-regional Role and Locational Strategy
- CS2 – Achieving High Quality, Sustainable Design
- CS14 – Promoting Local Character and Distinctiveness
- CS15 – Promoting and Enhancing Biodiversity and Geodiversity
- CS16 – Protecting Environmental Resources, Human Health and Safety



- CS19 – Improving Transport Infrastructure and Creating a Sustainable Transport Network

3.3 Reviewing the above planning policies and guidance, I consider that the key considerations in the determination of the applications related to:

- Principle of development;
- Landscape design, public realm, and trees;
- Promoting sustainable transport; and
- Heritage.

#### Principle of Development

3.4 The proposed developments will offer a transformation of the area, by creating new entrances to Darlington Station befitting of a major transport hub and a modern and safe environment for station users. Such improvements are supported by Chapters 8 and 12 of the NPPF; Saved Policies E14, E37 and T44 of the Darlington Local Plan; and Policies CS1, CS2, CS14, and CS19 of the Core Strategy. It is, therefore, considered that the proposed development is acceptable in principle.

#### Landscape Design, Public Realm, and Trees

3.5 The landscape design of the proposed developments create a welcoming entrance to Darlington and prioritises the space immediately in front of the station for pedestrians and cyclists in a safe and secure environment. This therefore allows people to interact socially and indirectly supports walking, cycling, and public transport use.

3.6 The landscape design and public realm of Gateway West seeks to link the Railway Station to the Town Centre and complements both the built heritage in this location as well as continuing the public realm improvements already delivered on Victoria Road. Whilst the proposed development of Station Gateway West will result in the loss of 1no tree subject to a Tree Preservation Order (identified as T13 on the Tree Constraints Plan), this tree is identified as

Category C3 which is a tree with no material conservation or other cultural value. The loss of this tree is to be compensated by a net gain in tree planting.

- 3.7 Although the proposed development of Gateway East will require the removal of 11 trees, extensive replacement planting is incorporated in to the scheme design. The new planting will create a welcoming environment for station users to stop and enjoy on their way to the station. Within the Gateway East site a new green will be created between the realigned Garbutt Square and Multi Storey Car Park. Overall the scheme at Gateway East is increasing the area of public greening with a range of different environments.
- 3.8 Therefore, considering the net improvement of well-designed hard and soft landscaping it is considered that the proposed developments accord with Chapters 8 and 12 of the NPPF, saved policies E12, E13, E14, E37, and T9 of the Darlington Local Plan, and Policies CS1, CS2, CS14, and CS19 of the Core Strategy.

#### Promoting Sustainable Transport

- 3.9 Section 3.10 of the Proof of Evidence of David Colley provides a summary of the highway and transportation benefits of the CPO Scheme. The proposed developments seek to create a safe and inclusive environment at the entrance to the station by promoting pedestrian and cyclist users in accordance with Chapters 8 and 9 of the NPPF, Saved Policy T9 of the Local Plan, and Policy CS19 of the Core Strategy.

#### Heritage

##### Gateway West

- 3.10 It is considered that the main planning consideration in determining the acceptability of the proposed developments is the impact upon designated and non-heritage assets. The heritage assets in the vicinity of Gateway West include the Grade II\* Listed Bank Top Station and the non-designated heritage assets of the former Hogans Public House (180 Victoria Road) and 137 – 139 Pensbury Street.

- 3.11 The aforementioned non-designated heritage assets are proposed to be demolished. In considering the impact of the loss of these buildings, Paragraph 197 of the NPPF requires the Local Planning Authority to make a balanced judgment on the proposed development having regard to the scale of any harm or loss and the significance of the heritage asset. In this regard, a Heritage Statement accompanied the planning application which clearly identified the significance of the heritage assets to be lost and the benefits of the proposed development, which were considered by the decision maker in determining the planning application.
- 3.12 In terms of harm to the significance of the Grade II\* Listed Bank Top Station, the submitted Heritage Statement concludes that the proposed development will lead to less than substantial harm. In accordance with Paragraph 196 of the NPPF, this harm needs to be weighed against the public benefit of the proposed development. Taken on its own, for example, the demolition of a building to build a revised road alignment is not likely to be sufficient justification. However, when the whole Gateway West project is taken into the balance, the public benefits, which are economic, social and environmental (see Chapter 5 of the Proof of Evidence of Jonathan Spruce) were found to be sufficient to outweigh the identified harm. The demolition of Hogans enables the creation of an improved entrance to Grade II\* Station, a realignment of the highway, relocation of the short stay car parking from inside the station to outside thereby improving the quality of experience and appreciation of the listed building. It will enable a more efficient use of the space for a transport interchange for both public transport via bus links throughout Darlington and beyond and the cycle network. Furthermore the removal of the existing parking from within the portico (which is a consequence of the proposed development) will de-clutter the portico and separate the foot passenger from waiting vehicles, thereby improving the station environment. The approach to the station up Victoria Road will be improved, retaining the long avenue at which the Station tower and entrance forms a vista, the general Victoria Road improvements will link with the new landscaped public realm area to the front of the station to create a more pleasant and useable entrance and exit to the building. The new station entrance will give improved access and connect to Darlington town centre and the wider region which in turn will benefit Darlington economically (Source - Chapter 3 of the Proof of Evidence of Jonathan Spruce)

and help to further promote the use and availability of sustainable modes of transport.

- 3.13 In summary the overall balance of harm is demonstrated as necessary to achieve enhancement to the setting of the Grade II\* listed station and improved customer offer. There are substantial public benefits that will flow from the submitted proposal that were considered sufficient by the decision maker to outweigh the harm.
- 3.14 On this basis, it is considered that the public benefits of the proposed development at Gateway West outweigh the less than substantial harm to the Grade II\* Listed Bank Top Station.

#### Gateway East

- 3.15 The Heritage Statement which accompanied the planning application for Gateway East found that the proposed development had the potential to affect the following designated heritage assets:
- Darlington Bank Top Station (Grade II\* Listed);
  - St John Church (Grade II Listed).
- 3.16 Of note is that the submitted Heritage Statement (SD17) concluded that the proposed development would create no harm to these designated heritage assets but instead the development would sustain and enhance the heritage assets. For the Station itself, this is achieved by the demolition of the modern buildings which do not contribute to the significance of the Station and, in some cases, are intrusive to the Station. The enhancement to the Church is achieved by the scheme protecting existing views and opening up new views to reinforce the visual connection between the Station and Church building to give the church an improved setting.
- 3.17 Overall it is considered that the proposed developments are in accordance with Chapter 16 of the NPPF and CS14 of the Core Strategy.

## Emerging Local Plan

- 3.18 The emerging Local Plan for Darlington underwent Public Examination between 25 May 2021 and 24 June 2021. The Council's Local Development Scheme originally envisaged adoption of the Local Plan to take place 3 – 4 months after the conclusion of Public Examination. One of the Procedural Documents which accompanied the Local Plan Public Examination was PD03 – Equality Impact Assessment. The Equality Impact Assessment found that the proposed Local Plan would have a positive impact on all groups of people with protected characteristics.
- 3.19 Following Public Examination, the Inspector concluded that Main Modifications are required to make the plan sound. A schedule of proposed Main Modifications has been prepared by Darlington Borough Council and were subject to consultation from 19 October 2021 to 30 November 2021. As well as the Main Modifications, Darlington Borough Council have also proposed some Minor Modifications. The policy referenced below includes the Minor Modifications proposed by Darlington Borough Council.
- 3.20 Land at Darlington Station Gateway West is included as part of a larger land allocation in the emerging Local Plan as 'Town Centre Fringe'. The applicable policy for this designation is Policy TC 6 which states *'Development and regeneration of the Town Centre Fringe will be promoted throughout the plan period to deliver a range of mixed use development and environmental improvements....To support the delivery of the remaining priorities identified in the Town Centre Fringe Masterplan, development in this area should...*
- b. Conserve historic buildings and where appropriate enhance the historic environment in the area, with an emphasis on creating opportunities for the celebration of Darlington's Heritage;...*
- d. Provide improvements in connectivity for pedestrians, cyclists and public transport into and through the area to allow access to jobs, leisure and business opportunities...'*
- 3.21 Only one response was received to the above policy during the consultation period. The response was from Historic England saying that they support the policy.

## **Material Considerations**

### **Town Centre Fringe Masterplan**

- 3.22 The Town Centre Fringe Masterplan was prepared in 2013 by Darlington Borough Council, the Homes and Communities Agency, and the Environment Agency. The Town Centre Fringe Masterplan is included as a Supporting Document (SD26 of the Examination in Public) to the emerging Local Plan. The Order Land falls within the boundary of land covered under the Town Centre Fringe Masterplan. Under Chapter 5 – Putting it All Together – Key Projects, an identified Key Project is:

*'The Bank Top Station area to include the improvement of a key gateway to the town and the redevelopment of the Cattle mart site.'*

### **The Bank Top Station Masterplan (A Vision for Darlington 2025 – A Modern Rail Hub for a Modern Economy)**

- 3.23 The Bank Top Station Masterplan was prepared by Darlington Borough Council and is included as a Supporting Document (SD27 of the Examination in Public) to the emerging Local Plan. Page 12 – 13 of the Masterplan identifies an ambitious long term vision with potential for the following:

Station East Development (which includes land referred to as Gateway East in this Proof of Evidence)

*'Station East presents a major opportunity to comprehensively redevelop the area around the new station building to deliver a major new commercial focused development as an extension of Central Park. A major new public space with vehicle drop off and taxi drop off from Neasham Road would be framed by active ground floor uses and supplemented by retail and complimentary cultural programs. Business focused spaces around the station provide for the areas use as a major commercial hub around the HS2 line. A new multi-story car park to the east of the station.'*

Victoria Road and West Portico (which includes land referred to as Gateway West in this Proof of Evidence)

*‘Victoria Road, from an opened up River Skerne crossing up the station Portico and extending south along Park Lane represents a key element of the station environment. Streetscape improvements to encourage walking and cycling along Victoria Road, and a greater sense of arrival and linkage into the town centre...’*

**Conclusion on Planning Policy Overview**

- 3.24 As demonstrated in this Chapter, I consider that the main considerations in the determination of the aforementioned applications are:
- Principle of Development;
  - Landscape Design, Public Realm and Trees;
  - Promoting Sustainable Transport
  - Heritage
- 3.25 The proposed developments sensitively deliver an improved environment to both sides of Bank Top Station which promotes sustainable transport by prioritising pedestrians and cyclists in an attractive environment to the station entrances.
- 3.26 The proposed developments accord with adopted and emerging planning policy, and material planning considerations including the NPPF, the Town Centre Fringe Masterplan, and The Bank Top Station Masterplan.

## 4.0 PLANNING APPLICATIONS

- 4.1 Details of the permitted development is provided in Chapter 4 of the Statement of Case (Acquiring Authority) Darlington Station Gateway CPO dated October 2021. The Statement of Case describes the scheme as Gateway West (applications 21/00691/DC and 21/00750/DCLB) and Gateway East (21/00688/DC). Details of each application and the development permitted on the Order Land is provided within this Chapter.

### *21/00691/DC – Gateway West*

- 4.2 As shown on the following drawings in Appendix DW1, the proposed scheme connects Park Lane to Pensbury Street, removing the highway pinch point on the Victoria Road / Park Lane junction, and creates an area of public realm to the front of the station to create a more welcoming environment to the Station.
- 4.3 A Request for Pre Application Advice was submitted to Darlington Borough Council on 12 February 2021. A response was received on 15 April 2021 which stated that *'The principle of the development to improve the public realm and surrounding highway to improve access and transport links around the station is considered to comply with relevant development plan policies, subject to consideration of...matters of development management.'* The Pre Application Advice also stated that the demolition of the wall surrounding the car park would require an application for Listed Building Consent.
- 4.4 A Request for a Screening Opinion was submitted to Darlington Borough Council on 14 January 2021. A response was received on 16 February 2021 which states *'...no significant environmental effects are likely that would warrant the submission of an Environmental Impact Assessment (EIA).'*
- 4.5 The planning application was submitted and validated on 9 June 2021 accompanied by the drawings and documents listed in Appendix DW2 (a link to the drawings and documents is contained in the submitted Statement of Case).



- 4.6 Following consultation undertaken by the Local Planning Authority, further information was then submitted on 11 August 2021 as detailed in Appendix DW2.
- 4.7 Following further consultation undertaken by the Local Planning Authority, further information was submitted on 20 September 2021 as detailed in Appendix DW2.
- 4.8 Of the 2 objections submitted to the planning application, no comments were received which suggested an alternative development scheme which would not require the acquisition of land outside of the freehold ownership of Darlington Borough Council (Source – SD26).
- 4.9 A 'Report on a Planning Application to be Determined under Delegated Powers in Conjunction with the Chair of the Planning Applications Committee' was produced dated 22 October 2021 recommending approval of the planning application (SD26). In concluding, the Report stated '*...Technical matters relating to highways, sustainable transport, ecology, archaeology, landscape and drainage can be dealt with by appropriate planning conditions, thereby complying with relevant planning policies on such matters...The proposed development would accord with the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, along with the considerations set out in the National Planning Policy Framework, 2021 and Policy CS14 of the Core Strategy, 2011...*'
- 4.10 A Notice of Grant of Planning Permission was then published dated 22 October 2021 (SD25).
- 4.11 The Notice of Grant of Planning Permission included 14 planning conditions. These are typical conditions attached to a planning permission and will be discharged within the required timeframes. In particular, as modelling undertaken as part of the submitted Drainage Strategy confirmed that the flow restrictions and storage volume detailed in Condition 9 are achievable, I consider that none of the conditions above present an impediment to practical or lawful delivery of the scheme. The table at Appendix DW3 indicates the indicative timeline for the discharging of conditions where required. I can see no reason why the planning conditions will not be discharged in the usual

manner in line with the table in Appendix DW3. Thus the only impediment I can see to the implementation of the planning permission, is the Council's current inability to confirm the Order and deliver vacant possession, which is why the CPO is required.

*21/00750/DCLB - Listed Building Consent for the partial demolition of car park boundary wall and the reuse of existing bricks to create 2 no. entrance pillars (amended plan received 23 September 2021)*

- 4.12 As shown on the drawing in Appendix DW4 the proposed scheme involves the demolition of a section of boundary wall to facilitate vehicular access to the existing car park. This is required because the current vehicular access to this car park will become an access for pedestrians only directly on to the area of public realm. This development prevents vehicles from accessing a car park over an area of proposed public realm.
- 4.13 An application for Listed Building Consent was submitted and validated on 24 June 2021. The application was accompanied by the following documents and drawings:
- One drawing consisting of a Site Location Plan / Existing Site Plan / Proposed Site Plan / Existing Elevation / Proposed Elevation (SD32);
  - Landscape Masterplan (SD30); and
  - Design and Access Statement.
- 4.14 A revised drawing consisting of a Site Location Plan / Existing Site Plan / Proposed Site Plan / Existing Elevation / Proposed Elevation was submitted on 23 September 2021 to rectify a scaling error on the drawing (Appendix DW4). No objections were received to this application.
- 4.15 A Report on a Planning Application to be Determined under Delegated Powers was prepared dated 21 October 2021. In concluding, the Report stated that *'...The proposed development would accord with the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, along with the considerations set out within the National Planning Policy Framework, 2021 and Policy CS14 of the Core Strategy, 2011...'*

- 4.16 A Notice of Grant of Listed Building Consent was issued dated 22 October 2021 (SD33) subject to 4 conditions. These are typical conditions which I would expect on a Listed Building Consent for a development such as this. The table at Appendix DW5 provides an indicative timeline for the discharging of conditions where required. I can see no reason why the conditions will not be discharged in the usual manner in line with the table in Appendix DW5.

*21/00688/DC – Gateway East*

- 4.17 As shown on the following drawings contained in Appendix DW6, the proposed scheme involves the 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:

- Demolition Plan (SD21); and
- Landscape General Arrangement (SD15).

- 4.18 A Request for Pre Application Advice was submitted to Darlington Borough Council. A response was received on 17 February 2021 which stated that *'Whilst there are no objections to the principle of the proposal, there are some issues which required further and continued attention prior to the submission of a formal planning application...'* From the pre-application response, I interpret the main issues which required further and continued attention related to noise impacts; heritage impacts; and matters of design.

- 4.19 A Request for a Screening Opinion was submitted to Darlington Borough Council on 14 January 2021. A response was received on 16 February 2021 which states *'...no significant environmental effects are likely that would warrant the submission of an Environmental Impact Assessment (EIA).'*

- 4.20 The planning application was submitted and validated on 9 June 2021 accompanied by the drawings and documents listed in Appendix DW7 (a link to the drawings and documents is contained in the submitted Statement of Case).

- 4.21 Following consultation undertaken by the Local Planning Authority, further information was submitted on 27 August 2021 as detailed in Appendix DW7.
- 4.22 Further information was then submitted on 9 September 2021 as detailed in Appendix DW7.
- 4.23 Of the 5 objections (from 3 households) submitted to the planning application, no comments were received which suggested an alternative development scheme which would not require the acquisition of land outside of the freehold ownership of Darlington Borough Council (SD9).
- 4.24 A Planning Applications Committee Report (SD9) was prepared which recommended planning permission be granted. The Report concluded that *'...overall, the proposal would accord with the appropriate local development plan policies on such matters [sustainable location, highways, residential amenity, design, heritage, landscape, ecology, drainage, archaeology]'*
- 4.25 The planning application was reported to Planning Committee on 29 September 2021. A Notice of Grant of Planning Permission was then published dated 29 September 2021 (SD10). The Notice of Grant of Planning Permission included 29 planning conditions. These are typical conditions attached to a planning permission and will be discharged within the required timeframes. I consider that none of the conditions present an impediment to practical or lawful delivery of the scheme. The table at Appendix DW8 provides an indicative timeline for the discharging of conditions where required. I can see no reason why the planning conditions will not be discharged in the usual manner in line with the table in Appendix DW8. Thus the only impediment I can see to the implementation of the planning permission, is the Council's current inability to confirm the Order and deliver vacant possession, which is why the CPO is required.
- 4.26 Whilst not requiring any land outside of the freehold ownership of Darlington Borough Council, the following planning application has been submitted to temporarily accommodate car parking whilst the development approved under planning application 21/00688/DC is under construction.

*21/01244/DC – Construction of a temporary car park and associated works at Former Farmers Cattle Market, Clifton Road, Darlington.*

4.27 The above planning application was submitted and validated on 28 October 2021. The proposal is for the construction of a temporary car park until 31 December 2024. The development proposed under this planning application is to accommodate the temporary loss of car parking whilst the development approved under planning permission 21/00688/DC is constructed. The application site is within the freehold ownership of Darlington Borough Council. Should the application be determined within 13 weeks then a decision on the planning application should be expected no later than 27 January 2022. To date (16 December 2021), the following consultation responses have been received:

- A resident of Waverley Terrace – An objection with comments regarding the entry barrier; lights from cars; noise; litter; disruption during construction; drainage; clarification of design of a boundary wall and tree works; and current parking restrictions
- A resident of Waverley Terrace – An objection with comments regarding the lack of tree maintenance; air quality; and existing poor parking in the area;
- A resident of Waverley Terrace – An objection about the proposed dropped kerb on Waverley Terrace;
- A resident of Nelson Terrace – Comments questioning the need for the proposed temporary car park; promoting alternative means of transport; and a query regarding increased business rates;
- Environmental Health Officer – Responded advising that no conditions are required related to noise; lighting; or contaminated land;
- British Transport Police – Support the application in principle but lists comments for consideration;
- Network Rail – Responded with no observations;
- Conservation Officer – Responded advising that the proposal will not have a detrimental impact to the setting of the Bank Top Station;
- Highway Development Control – No objection subject to conditions;
- Lead Local Flood Authority – Unable to provide a response until a response is received from Northumbrian Water;

- Transport Policy – No objection received but made some design suggestions.

4.28 Based on the consultation responses received to date, I consider that the principle of the proposed development is acceptable and planning permission is likely to be granted for the proposed development for the temporary period applied for. Should the planning application have applied to use the application site for car parking in perpetuity then I consider such a planning application would be likely to be refused. This is because the emerging Core Strategy allocates the application site for housing development. Policy H2 of the emerging Core Strategy estimates that the site has an indicative yield of 76 properties by 2036. Granting planning permission for a car park for a temporary period until 31 December 2024 does not preclude the ability of the site to deliver 76 properties by 2036.

#### Planning Application Conclusions

4.29 In Chapter 3.0, as required by the Guidance, I conclude that I consider that the proposed developments accord with relevant planning policy and guidance. In this Chapter, it is evident that the Local Planning Authority also conclude that the proposed developments accord with relevant planning policy and guidance.

#### No impediments to implementation

4.30 I have explained above that the Council has granted planning permissions and listed building consent for the redevelopment of the Site. The planning permissions and listed building consent were not subject to legal challenge and remain extant and capable of implementation. In my view the planning conditions attached to the planning permission are standard and are likely to be discharged in a reasonable timescale.

4.31 I therefore consider that there is extant planning permission and listed building consent for the Scheme which is capable of implementation. There are no planning impediments to implementation of the Scheme.

## **5 OBJECTIONS**

5.1 The section responds to some of the objections made by statutory objections to the CPO. This section only covers objections that have a link to planning or planning policy.

5.2 I consider that the following Objectors are relevant to this Proof of Evidence:

- United Parking (Plot 27) – there is no planning proposal or implementable planning permission; and
- Nicola Allan, as advocate (Plot 43) – There is no planning permission for the CPO Scheme and development plan support is not sufficient to support a compelling case.

5.3 As identified in Chapter 3 of this Proof of Evidence, I consider that the proposed developments accord with adopted and emerging planning policy, the NPPF, and material considerations. As identified in Chapter 4 of this Proof of Evidence, planning permission has now been granted for the proposed developments and I consider that the planning conditions do not present an impediment to the practical or lawful delivery of the developments.

## 6 CONCLUSION

6.1 Below I set out my conclusions. This will serve as my summary proof of evidence at the Inquiry.

6.2 Firstly, in accordance with paragraphs 13 and 15 of the Guidance I have demonstrated through my evidence that the acquiring authority has a clear intended use of the Order Land and there are no planning impediments to the Scheme going ahead. Full planning permission and listed building consent has been granted for the following developments:

*21/00691/DC - Demolition of Hogan's Public House, 97 Pensbury Street, 137-139 Victoria Road, 1 Waverley Terrace and 1-4 Park Lane together with highway and ancillary infrastructure works including creation of bus stops and lay-bys, new highway access and turning facility at rear of Pensbury Street, partial demolition of boundary wall to facilitate new vehicular access to existing car park, turning facility to Waverley Terrace and associated public realm landscaping works (amended landscape masterplan and cross section, additional appendices to design and access statement and further supporting information received 11 August 2021) (Approved – 22 October 2021)*

*21/00750/DCLB - Listed Building Consent for the partial demolition of car park boundary wall and the reuse of existing bricks to create 2 no. entrance pillars (amended plan received 23 September 2021) (Approved – 22 October 2021)*

*21/00688/DC - 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 (Additional Bat Survey Report received 27 August 2021) (Approved – 29 September 2021)*

6.3 On the basis that the Scheme has full planning permission and as I can see no reason why the conditions will not be discharged in due course, I can see no planning impediment to the delivery of the Scheme.

6.4 With reference to paragraph 106 of the Guidance, I conclude that the extant planning permissions and listed building consent are consistent with the strategic planning framework. I provide detail on the planning permissions and listed building consent and set out how the Scheme fits in



with the strategic planning framework in particular the adopted development plan and the National Planning Policy Framework.

- 6.5 I respond to the planning related objections of United Parking (Plot 27) and Nicola Allan, as advocate (Plot 43).
- 6.6 In conclusion, the Order is required to complete the Scheme and enable the implementation of the planning permissions. It will assist in delivering national and local policy aspirations for the area by enabling the redevelopment of the Order Lands. Without confirmation of the Order, the benefits identified in terms of economic, social and environmental will not be achieved.