

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  
Ian Stewart BSc (Hons) PG Dip (T&CP)**

**Topic: Funding and Deliverability**

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## 1. INTRODUCTION

1.1 My name is Ian Stewart and I am employed as the Capital Programme Manager with Darlington Borough Council (DBC).

1.2 I am a graduate in Ecological Sciences, with a post-graduate diploma in Town and Country Planning. I have been employed in policy development, masterplanning and project management for approximately 30 years; and primarily in public and public-private construction management roles for much of the past 20 years.

1.3 For most of my professional life, I have worked within central and local government organisations on a broad range of design, land assembly and construction projects covering commercial, public realm, buildings, amenity, transport and highways projects. I have worked as project manager, programme manager and head of service during this time. I currently undertake the lead role in the coordination and delivery of the various elements of the Darlington Station Project that fall under DBC's remit. This remit covers design, land assembly, construction and financial and programme management for both the East and West gateway elements of the Darlington Station Project.

1.4 In having responsibility for the management of the delivery of the DBC elements of the project, my role is to direct DBC project managers and others who are engaged in the day-to-day delivery of the various elements of the projects, the land assembly and communications work. I also work closely with our strategic lead and funder, TVCA; with Network Rail, their respective team members, consultants and contractors; and with a range of other stakeholders, including the train operating companies, interest groups and other stakeholders.

## 2. SCOPE OF EVIDENCE

2.1 The Guidance on Compulsory Purchase Process (2021) ("**the Guidance**") (Core Document (CD REF) identifies specific funding and deliverability matters to be addressed in consideration of the case for the CPO, namely:

- (i) acquiring authorities should be able to show that all the necessary resources are likely to be available within a reasonable timescale (para. 13);
- (ii) the acquiring authority should provide substantive information as to the sources of funding available for both acquiring the land and implementing the scheme for which the land is required (para 14);
- (iii) specific advice in relation to CPOs under s.226(1)(a) of the Town and Country Planning Act 1990 provides that a general indication of funding intentions, and of any commitment from third parties, will usually

- suffice to reassure the Secretary of State that there is a reasonable prospect that the scheme will proceed (para 106); and
- (iv) 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, including the programming of any infrastructure accommodation works or remedial work which may be required (para 15).

Paragraph 13 of the Guidance states:

13. How will the confirming minister consider the acquiring authority's justification for a compulsory purchase order?

The minister confirming the order has to be able to take a balanced view between the intentions of the acquiring authority and the concerns of those with an interest in the land that it is proposing to acquire compulsorily and the wider public interest. The more comprehensive the justification which the acquiring authority can present, the stronger its case is likely to be.

However, the confirming minister will consider each case on its own merits and this guidance is not intended to imply that the confirming minister will require any particular degree of justification for any specific order. It is not essential to show that land is required immediately to secure the purpose for which it is to be acquired, but a confirming minister will need to understand, and the acquiring authority must be able to demonstrate, that there are sufficiently compelling reasons for the powers to be sought at this time.

If an acquiring authority does not:

- have a clear idea of how it intends to use the land which it is proposing to acquire; and
- cannot show that all the necessary resources are likely to be available to achieve that end within a reasonable timescale it will be difficult to show conclusively that the compulsory acquisition of the land included in the order is justified in the public interest, at any rate at the time of its making.

Paragraph 14 of the Guidance states:

14. What information about the resource implications of the proposed scheme does an acquiring authority need to provide?

In preparing its justification, the acquiring authority should address:

a) sources of funding - the acquiring authority should provide substantive information as to the sources of funding available for both acquiring the land and implementing the scheme for which the land is required. If the scheme is not intended to be independently financially viable, or that the details cannot be finalised until there is certainty that the necessary land will be required, the acquiring authority should provide an indication of how any potential shortfalls are intended to be met. This should include:

- the degree to which other bodies (including the private sector) have agreed to make financial contributions or underwrite the scheme; and
- the basis on which the contributions or underwriting is to be made

b) timing of that funding - funding should generally be available now or early in the process. Failing that, the confirming minister would expect funding to be available to complete the compulsory acquisition within the statutory period (see section 4 of the Compulsory Purchase Act 1965) following the operative date, and only in exceptional circumstances would it be reasonable to acquire land with little prospect of the scheme being implemented for a number of years.

Evidence should also be provided to show that sufficient funding could be made available immediately to cope with any acquisition resulting from a blight notice.

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:

...

- the potential financial viability of the scheme for which the land is being acquired. A general indication of funding intentions, and of any commitment from third parties, will usually suffice to reassure the Secretary of State that there is a reasonable prospect that the scheme will proceed. The greater the uncertainty about the financial viability of the scheme, however, the more compelling the other grounds for undertaking the compulsory purchase will need to be. The timing of any available funding may also be important. For example, a strict time limit on the availability of the necessary funding may be an argument put forward by the acquiring authority to justify proceeding with the order before finalising the details of the replacement scheme and/or the statutory planning position

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;

...

My evidence will provide substantive information as to the sources of funding available and demonstrate that all the necessary resources are likely to be available within a reasonable timescale. I will also demonstrate that the scheme is deliverable and unlikely to be blocked by any physical or legal impediments to implementation.

In section 3 I begin by explaining the Project elements; who is engaged in the delivery of the Project and how it is managed. I set out the Project Programme; I then explain how the Project is being funded and its current funding status.

I explain that there are no impediments to delivery and also how the Scheme will be managed in the future once constructed.

Finally, in section 4, I respond to the objections to the CPO that propose there are funding and financial deliverability issues.

### **3. EVIDENCE**

#### **Delivery**

3.1 The Project is being delivered through the development of land to the East and West of Darlington Station, for which land must be acquired, alongside the development of the existing station. The former is being delivered by Darlington Borough Council, on behalf of Tees Valley Combined Authority (TVCA) and the latter by Network Rail (NR). All three bodies are well-versed in the delivery of infrastructure projects. The different elements of the overall Darlington Station Project as set out in the Outline Business Case (OBC) and UBC (Updated Business Case) are currently being delivered by the above delivery bodies. These are:

- Two new bay 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 East Coast Mainline (ECML), removing current capacity and reliability issues at Darlington South Junction;
- Another new platform adjacent to the Up Goods Line, to be used by southbound long-distance high-speed services calling at Darlington, giving a much faster, unconflicted approach and departure in both directions, saving valuable time on the ECML;
- A new station building, with multi-modal connections, to service the new platforms;
- 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;
- Enhancement to the existing station portico; and

- Transport interchange facilities on the western side of the station.

3.2 In order to identify the feasibility of the project, TVCA initially commissioned the experienced consultancy ARUP in June 2018 to undertake an outline business case. ARUP were then commissioned a second time, in March 2019 to develop a preferred layout for the east side of Darlington station and work this layout up into a concept design (ref TVCA). Having received support from partners, the Project was developed via three elements:

1. DBC appointed the experienced Willmott Dixon Construction (WDC) in 2020 to lead on the design and intended delivery of the land to the east of the station. WDC are supported by Napper Architects, TGA (Mechanical and Electrical Engineers) and Fairhursts (structural and civil engineers). Planning permission was granted in September 2021 and WDC are progressing detailed design. Following completion of a detailed construction design (in February 2022), it is anticipated that WDC will then prepare to begin the construction phase, which is not scheduled to begin before September 2022, subject to the outcome of the Inquiry. A small amount of work to Neasham Road is required to facilitate bus stops, crossings and access into the new, proposed station facilities. These works on the public highways, will be designed by WDC and Fairhursts as part of the above commission to ensure consistency, but will be constructed by DBC's Highways Section.


2. DBC created the initial design for the western approach to the station, together with a temporary car park on the former cattle market site. The Council then engaged Fairhursts to develop these designs and to prepare costed tender packages. Planning Permission for the West Gateway was granted in October 2021. The planning application for the use of the former cattle market site as a temporary car park (during the construction of the MSCP) was submitted in October 2021, following design discussions with DBC's planning department. DBC's experienced in-house highways and civils team will complete the construction of these elements, having recently completed upgrades to the adjoining Victoria Road.

3. NR engaged AECOM and BAM Nuttall to design and construct the Rail Enhancement element of the scheme. Both work regularly on UK rail projects and are suitably resourced and experienced in order to undertake the required work at Darlington Station. The contractor (BAM Nuttall) was engaged early, to improve the relationship and control between designer and contractor. The station is fully within NR's ownership, so no land acquisitions are required for this element.

3.3 The project has been developed over a number of years by these organisations in collaboration with the rail operating companies, Department for Transport and Transport for the North. It is identified as a priority by DfT, NR, DBC and TVCA. The delivery is overseen by the Darlington Station Project Board, who direct a Programme Development Group (PDG) and in turn a series of working groups that contain an appropriate range of specialists to direct the project's implementation. The delivery structure is shown in Appendix IS1.

3.4 In line with the funding programme, the delivery of the overall project is progressing as required in order to achieve the completion of the project in mid-2024. A summary of the programme is shown below:

### Darlington Station Project - Summary Programme

			
Darlington Station Project Integrated Programme Summary 10/12/21			
ACTIVITY	ORGANISATION	TARGET START DATE	TARGET FINISH DATE / MILESTONE
Commence Process to Secure Acquisitions By Agreement	DBC	28/01/2020	Ongoing
Cabinet Approval to prepare CPO	DBC	04/02/2020	04/02/2020
Station Gateway East - Design Development with WDC	DBC	26/05/2020	28/02/2022
Station Gateway West - Design Development	DBC	15/06/2020	28/02/2022
Rail Enhancement Project - Design Development with BAM	NR	01/09/2020	31/03/2023
Compulsory Purchase Order - Formal Resolution by Cabinet to use Powers - Meeting Date	DBC	25/01/2021	25/01/2021
Cattle Market Temporary Car Park - Design Development	DBC	07/06/2021	28/02/2022
Station Gateway East - Planning Decision	DBC	30/09/2021	30/09/2021
Station Gateway West - Planning Decision	DBC	22/10/2021	22/10/2021
Public Inquiry	PINS/DBC	18/01/2022	21/01/2022
Cattle Market Temporary Car Park - expected Planning Decision (subject to planning consultations)	DBC	19/01/2022	19/01/2022
Decision to Deliver Process	NR/DfT	01/03/2022	30/06/2022
Cattle Market Temporary Car Park - Construction	DBC	01/04/2022	15/07/2022
Inspector's Decision Issued	PINS/DBC	Anticipated By 15/04/2022	Anticipated By 15/04/2022
Station Gateway West - Construction	DBC	not anticipated before 01/09/2022	not anticipated before 01/06/2023
Rail Enhancement Project - Infrastructure Construction	NR	01/10/2022	30/09/2024
Station Gateway East - Construction	DBC	11/10/2022	10/04/2024
New Train Services in Full Operation	NR	08/12/2024	Ongoing

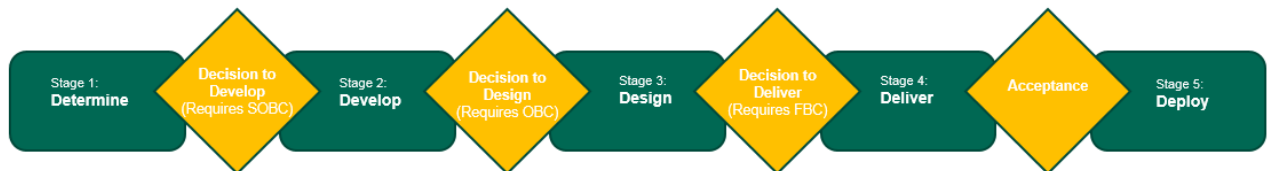
### Funding

3.5 The project is being designed according to the available budget, and both the DBC and NR teams contain cost consultants to regularly review the anticipated project outturn costs. The delivery teams share cost, risk and programme information to create a series of integrated project documents and review these at consultant/contractor and client project



manager workshops to ensure the project remains deliverable within the identified constraints, using available market information, inflation and other factors that impact on delivery.

3.6 The funding is to be drawn down from two sources: TVCA (£25m with a further £8m should this be required as a contingency) and directly from DfT through the Rail Network Enhancements Pipeline (RNEP) for the remainder. In January 2019 TVCA committed its funding contribution through the Transforming Cities Fund. The approval of the RNEP funding is running as anticipated to fund the project according to the current programme. DfT has confirmed that funding for the rail enhancements at Darlington station will be met from the RNEP budget. £8.7m has already been awarded from DfT to fund design work and the remainder will be awarded subject to the business case for the scheme continuing to provide value for money. The Full Business Case (FBC) for the project, which will request a Decision to Deliver, and seek the remaining funds from DfT, is due for submission in Spring 2022. Letters confirming the funding position of both funders are included in Appendix IS2. A summary of the RNEP sequence of approvals, provided by DfT, is given below:



## Future Management

3.7 On completion the entire East Gateway, comprising the new station, MSCP and interchange will be under the responsibility of NR. It will be managed by LNER under lease ensuring that this enhanced rail asset is securely maintained and operated for the future. DBC will adopt the West Gateway land so that its future maintenance is secured as part of its highways duties. The temporary parking use of the former cattle market site will end once the new East Gateway and station become operational.

## 4. OBJECTIONS

### Responses to the objections on the grounds of funding and deliverability

**4.1 Firstly in response to objections received, that challenge the financial position of the scheme, I refer back to Section 2 of my Witness Statement (The Guidance on Compulsory Purchase Process (2021) (“the Guidance”) (Core Document (CD REF)) that sets out the policy requirements – namely that:**

- (i) acquiring authorities should be able to show that all the necessary resources are likely to be available within a reasonable timescale (para. 13);

- (ii) the acquiring authority should provide substantive information as to the sources of funding available for both acquiring the land and implementing the scheme for which the land is required (para 14);
- (iii) specific advice in relation to CPOs under s.226(1)(a) of the Town and Country Planning Act 1990 provides that a general indication of funding intentions, and of any commitment from third parties, will usually suffice to reassure the Secretary of State that there is a reasonable prospect that the scheme will proceed (para 106); and
- (iv) 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, including the programming of any infrastructure accommodation works or remedial work which may be required (para 15).

#### **4.2 United Parking Objection no.4:**

- The acquiring authority has failed to identify full funding to implement the CPO scheme (DfT funding has not been confirmed)

4.2.1 The CPO scheme (incorporating East and West Gateway Projects) is being delivered alongside the Rail Enhancement Project (REP) and a single budget of £105m (plus an additional £8m contingency should it be required) has been identified for the overall Darlington Station Project.

4.2.2 An integrated design process is being delivered by TVCA and DBC for the Gateway Projects and by NR for the Rail Enhancement Project. Both projects are delivered in line with industry standard project stages: the CPO scheme employs a RIBA framework and the REP, employs the rail, GRIP framework. Through feasibility, outline and detailed design the project costs are examined by suitably qualified cost consultants and as a result the project budget has been tested and confirmed as being appropriate.

4.2.3 The acquiring authority has secured £25m from the Tees Valley Combined Authority (TVCA). The approval process followed its agreement at the TVCA Cabinet meeting on 30 November 2018 and it was subsequently endorsed in the Tees Valley Investment Plan 2019/29 and Integrated Transport Programme report of 31 January 2020 (ref. TVCA). TVCA have submitted a letter to confirm their funding support.

4.2.4 DfT has written to confirm that funding for the rail enhancements will be met from the RNEP funding budget; however the DfT process requires the FBC to be completed before it confirms the Decision to Deliver. The Decision to Deliver also relies on the development land being available so whilst the project is proceeding satisfactorily and as would be expected for a project at this stage, the Decision to Deliver cannot be confirmed prior to the Public Inquiry.

4.2.5 As of 12 November 2021, TVCA has invested £4.126m of the £25m it had secured for the project. This has been paid directly to consultants or to the acquiring authority. TVCA is currently looking to make further funding available, from the £25m budget, based on the estimated value of outstanding land acquisitions. It has also proposed to increase its total investment by £8m, should this be required. Under TVCA's funding process it will award all outstanding funding by means of a Funding Agreement once the Full Business Case is agreed.

4.2.6 As of 9 November 2021, DfT has awarded £8.7m of RNEP funding to the scheme. Under the RNEP funding process DfT will award the further funding once an FBC has passed through the RNEP governance process, by confirming a Decision to Deliver. As well as being reliant on the scheme continuing to provide value for money, this is also dependent on the land being secured, following the Public Inquiry. Paragraph 14 of the guidance specifically accepts that an acquiring authority may be unable to finalise financial commitments at the point of an Inquiry. However, DfT have given every assurance that they expect funding from the RNEP to be made available to deliver the scheme.

4.2.7 The original Outline Business Case was supported by DfT in 2020. The full Business Case will be submitted to DfT in March 2022 and be considered by a series of project management, NR and DfT boards and panels. This is a standard DfT process and follows the development of the design process being led by Network Rail. This process and DfT's full funding award are anticipated to be confirmed in June 2022.

4.2.8 The above meets the resources and funding tests as shown in Section 4.1; namely that all necessary resources are likely to be available within a reasonable timescale; that substantive information has been provided on the funding sources available for the acquiring of land and delivery of the scheme; and thirdly that a general funding intention and commitment has been evidenced.

### **4.3 United Parking Objection no. 5**

- There is a failure to identify that the scheme is financially viable

4.3.1 As above, the scheme at this stage of development has received the required funders' endorsements in line with the target price for its delivery. Land acquisition, design, construction and other project costs have been reviewed throughout its development and demonstrate that the scheme is financially viable. A precise, final project cost will be known once constructors' contracts are agreed, following detailed design and tendering.

4.3.2 The long-term financial viability of the scheme is secured whereupon the East Gateway CPO area is to be under the ownership of Network Rail who are statutorily required to manage rail infrastructure. All of the CPO area owned by NR will be included within a lease let to LNER (or their successors) who will manage this area as part of their rail estate. Both bodies are currently part of DfT and whilst the future governance structure of UK rail infrastructure may be subject to change, for example by being managed by a commercial franchise, it is reasonable to assume that its operation will be assured by DfT and government. There is no uncertainty with regard to the financial viability of DfT to manage this rail asset.

4.3.3 The land and highways being improved on the Eastern fringes of the CPO land and the West side of the station will all be adopted by DBC, the local highway authority, and managed within their estate. I have no doubt that the highway authority is able to manage its estate in an appropriate manner and it is reasonable to expect that it will continue to have the funds to do so.

## **5. CONCLUSION**

5.1 My evidence provides detail on the financing and programming of the CPO Scheme. Together with evidence about the Business Case, produced for the Inquiry by Jonathan Spruce, my evidence shows that the CPO Scheme and the Darlington Station Project are deliverable. It outlines how the CPO Scheme has been established and is managed in a suitable and recognised format; is well-structured and being delivered by suitable organisations following standard industry practices. My evidence shows how the process of securing funding is at an advanced stage, commensurate with this type and stage of project.

5.2 When taken together with evidence in the Business Case I believe that my evidence rebuts the objections that the scheme is i) deficient in or is unlikely to receive sufficient funding and ii) is not financially viable.

5.3 The Inspector is therefore respectfully requested to confirm the CPO on the basis that the CPO scheme is deliverable and all the land that has been identified within the CPO is required to deliver the scheme.

## **6. DECLARATION**

6.1 I confirm that I have made clear which facts and matters referred to in this proof of evidence are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer, and I confirm that I have understood my overriding duty to the Inquiry in this regard.

6.2 I confirm that my evidence includes all facts which I regard as being relevant to the opinions I have expressed, and that attention has been drawn to any matter known to me that would affect the validity of those opinions.