



COUNCIL CABINET
13 November 2019

ITEM 11

Report sponsor: Strategic Director for
Communities & Place
Report author: Head of Regeneration & Major
Projects

**Compulsory Purchase Scheme – Compulsory purchase of
properties in Castleward**

Purpose

- 1.1 The report describes the work undertaken to progress the CPO Scheme proposal and outlines the key points from the Draft Statement of Reasons (dSoR) in Appendix 1. It sets out the next steps and timescales for the compulsory purchase process, highlights the key risks associated with proceeding and seeks approval for the capital and revenue budget implications of acquisitions.
- 1.2 In March 2019, Derby City Council secured £4.47m of Housing Infrastructure Fund (HIF) from Homes England to deliver further phases of new housing within the Castleward Urban Village (CUV) regeneration area. In order to achieve certainty of delivering a quantitative and qualitative improvement in housing provision at Castleward, and within the timescales required under the HIF agreement, this report seeks Cabinet approval to proceed with a Compulsory Purchase Order (CPO), alongside continued efforts to acquire interests by mutual agreement.

Recommendations

- 2.1 To note the outcome of preparatory work approved by Cabinet in November 2018 and undertaken to date on the Compulsory Purchase Order relating to the Scheme, as set out in paragraphs 4.1 to 4.5.
- 2.2 To approve the dSoR in Appendix 1 as providing the necessary reasons and justification for making the CPO and in particular being satisfied that the proposed purpose for which CPO is made justifies interfering with the human rights of those with an interest in the land affected.
- 2.3 To authorise the Council:
 - 2.3.1 in making a Compulsory Purchase Order (“the CPO”) in respect of the land shown coloured pink (“the Order Land”) on the plan contained at Appendix 2 under Section 17 of the Housing Act 1985 (as amended) for the purposes of achieving a qualitative or quantitative housing gain; and
 - 2.3.2 in acquiring new right as necessary under Section 13 Local Government (Miscellaneous Provisions) Act 1976 for the purposes of facilitating the development of the Order Land referred to in paragraph 2.3.1 above.

- 2.4 To delegate authority to the Strategic Director of Corporate Resources, in consultation with the Cabinet Member for Regeneration and Public Protection, the Cabinet Member for Adults, Health and Housing and Cabinet Member for Governance and Licensing to:
- i. take all necessary steps to secure the making, confirmation and implementation of the CPO, including making further amendments by way of finalising the dSoR, the publication and service of all relevant notices and the presentation of the Council's case at any future Local Public Inquiry;
 - ii. approve terms for the acquisition of legal interests (including new rights) by agreement including for the purposes of resolving any objections to the CPO;
 - iii. take all necessary steps to resolve any compulsory purchase compensation claims, including, if necessary, by way of making (or responding to) a reference to the Upper Tribunal (Lands Chamber); and
 - iv. agree terms for the subsequent transfer of land to Compendium Living as described in paragraphs 4.18 and 4.19
- 2.5 To approve the addition of £8.482m to the capital programme and the proposed funding as detailed in paragraph 7.2.
- 2.6 To note and accept the risks associated with progressing the work proposed in this report as identified in paragraph 4.23.
- 2.7 To approve the inclusion in the MTFP of the permanent £40k revenue budget pressure at paragraph 7.10
- 2.8 To approve the treatment of any temporary revenue budget implications that may arise from the asset management strategy during the holding period as detailed in paragraph 7.11.

Reason

- 3.1 Housing-led regeneration at Castleward Urban Village (CUV) is a priority project in Derby's City Centre Masterplan 2030 and critical to achieving the housing targets in the Derby City Local Plan (2011-2028). Early phases of development at CUV were completed without the requirement for the Council to exercise its compulsory purchase powers. The Local Plan specifically envisages the use of compulsory purchase powers to deliver the wider CUV if required.
- 3.2 The acquisition of property interests by agreement is the Council's preferred option. The use CPO powers will be used as a last resort to secure the assembly of land, as required. A local authority contemplating the use of CPO powers is expected to seek to acquire land by negotiated settlement prior to and concurrently with implementing the CPO. The Council has, and will continue to, put considerable effort into engaging with all known owners of land or interests that will be directly affected by the CPO (as set out in section 5 of this report). In giving this authority for the use of the CPO power the Council is demonstrating that it is willing to use its CPO powers in order to deliver

the housing scheme that underpins the CPO.

- 3.3 A Draft Statement of Reasons (dSoR) (see Appendix 1) has been prepared in connection with the making of a CPO entitled the Derby City Council (Castleward) Compulsory Purchase Order 2019. The dSoR sets out the Council's justification for the use of the CPO powers provided in section 17 Housing Act 1985 and section 13 Local Government (Miscellaneous Provisions) Act 1976. The CPO is necessary in order to assemble the land required for the proposed residential development of the land to deliver at least 512 new dwellings within the Order Land.

Supporting information

Background

- 4.1 The regeneration of Castleward Urban Village (CUV) is a priority project in the Derby City Centre Masterplan 2030 and critical to achieving the housing targets in the Derby City Local Plan (2011-2028). The Local Plan Target for CUV expects at least 800 new housing completions by 2028, including affordable housing. A residential-led development at Castleward to deliver up to 840 dwellings secured outline planning permission in 2013, (ref: DER/05/12/00563) with delivery of new homes planned over 5 phases. Phase 1 is successfully complete (164 new homes plus show home) and Phase 2 has commenced on site (54 homes). Neither of these phases required the exercise by the Council of its compulsory purchase powers.
- 4.2 The key partners in the delivery of CUV are the Council, Homes England and Compendium Living who were procured and appointed as developer partner for CUV in 2011. A development agreement exists governing the roles and relationships of these partners.
- 4.3 Following an unsuccessful period of negotiation with owners and occupiers in the area to acquire land, the Council applied to Homes England for Housing Infrastructure Fund (HIF) Marginal Viability funding. To guarantee obtaining sufficient land within the CUV to create 512 new homes, Homes England requires the use of CPO powers to ensure land assembly by March 2022.
- 4.4 In November 2018, Cabinet approved in principle the use of CPO powers to progress further phases of housing development at CUV with a further report to be brought back to Cabinet to detail the land proposed to be subject of a CPO, the final CPO strategy, process and seek the final authority for the use of CPO powers. Although there had been ongoing negotiation with businesses in the area since 2015, the 'in principle' decision to exercise the Council's CPO powers and the subsequent land referencing exercise has encouraged further negotiations with those with legal land interests in the CUV.
- 4.5 In September 2019, Cabinet approved the funding package for a new primary school at Castleward which includes an additional £3.0m HIF grant from Homes England. Delivery of a primary school is a requirement of the outline planning permission to serve the new community and ensure a sustainable form of development. Construction is scheduled to commence in May 2020 and open in September 2021.

Compulsory Purchase Order – Progress since November 2018

- 4.6 Since Cabinet gave its ‘in principle’ approval in November 2018, the key tasks undertaken to progress the CPO have been as follows:
- i. A land referencing exercise was undertaken between February 2019 and May 2019 by Ardent (on behalf of the Council). This work established the extent and details of landownership within the regeneration area, including those within the proposed Order Land (see Appendix 2).
 - ii. A valuation exercise by Thomas Lister (on behalf of the Council) was then undertaken to identify the anticipated cost of acquiring land and property interests; and the cost of paying compensation to qualifying parties. This work informed the extent of the CPO Scheme that is now recommended for should be progressed. The land required within the proposed CPO area comprises commercial / industrial premises, with no residential uses. Affected are 27 businesses with an estimated total of 205 FTE employees.
 - iii. The Council’s preferred route of property acquisition with affected owners and occupiers within the Order Land is by mutual agreement, in advance of using CPO powers. Continuous engagement has taken place since November 2018 by Council officers and agents with businesses, organisations and interests within the CUV area.
 - iv. The Council is working with businesses in the proposed Order Land to understand their business requirements and, with support from Marketing Derby to assist with relocation options.
 - v. A Draft Statement of Reasons (dSoR) has been prepared setting out the Council’s case for use of the CPO powers. This has been prepared by officers with the assistance from Freeths LLP and legal Counsel.
- 4.7 The November 2018 Cabinet “in principle” approval was for the use of CPO powers pursuant to section 226(1) (a) of the Town and Country Planning Act 1990. However, further to legal advice from Freeths LLP and legal Counsel in preparing the dSoR the intention now is to use the CPO powers set out in section 17 Housing Act 1985. This more accurately reflects the purpose that lies behind the use of the powers, which is to increase housing provision whilst at the same time promote positive social and economic change.
- 4.8 Following completion of the preparatory work set out in paragraphs 4.4 and 4.5, Cabinet approval is sought to progress to the next stage of the CPO process, which involves making the CPO and serving statutory notices etc. The dSoR provides the necessary reasons and justification for the use by the Council of CPO powers the purpose of which is to bring about a quantitative and qualitative housing gain.

CPO Proposal and next steps

- 4.9 The land required for the CPO Scheme is shown on the plan (shaded in pink) in Appendix 2 and is described in Part 2 of the dSoR. This includes acquisition of rights over land required to enable construction/development to be undertaken.

- 4.10 The implementation of the CPO Scheme will deliver at least 512 homes in a desirable and highly sustainable location, close to the City Centre, Pride Park, the bus station, the railway station, Bass' Recreation Ground and the banks of the River Derwent. It will deliver a coherent residential development in its own right, and will provide a high level of amenity for occupiers without having to rely on the development of any future phases. The mix of tenures and range of property types will encourage a diverse and inclusive community to further develop, in a neighbourhood well placed to reduce dependence on the private car, and to promote walking and the informal interactions between neighbours that result.
- 4.11 Parts 3 and 5 of the dSoR detail the relevant enabling powers for making the CPO and the justification to support the use of those powers, taking account of both the benefits and dis-benefits of the Scheme, and sets out how the Scheme will provide the quantitative and qualitative housing gain, which is a necessary requirement for the use of the powers under section 17 Housing Act 1985.
- 4.12 The delivery and funding of the CPO Scheme is explained in Part 11 of the dSoR. The dSoR describes proposals that are consistent with the planning objectives for the area with delivery being through an appointed development partner, Compendium Living who have already delivered high quality housing in Phase 1. The partnership of the Council, Homes England and the developer are able to secure the funding necessary to acquire the sites and deliver the infrastructure so as to satisfy and demonstrate that all the necessary resources are likely to be available to deliver the Scheme within a reasonable timescale. Impacts on Human Rights and Equality and Diversity issues are to be found in Parts 12 and 13 of the dSoR.
- 4.13 The Council will continue to take reasonable steps to acquire by agreement the legal interests that are the subject of the CPO. However, the Government policy that underpins and guides local authorities on the use of the CPO powers, recognises that it is appropriate to initiate formal CPO procedures, whilst continuing to negotiate, as it both helps to emphasise the seriousness of the Council's intentions whilst at the same time encouraging affected landowners to enter more readily into meaningful negotiations.
- 4.14 The key tasks and indicative timeframes for completing the next phase of work are set out in the table below. The timeframes are based on evidence from previous CPOs and are subject to Cabinet approval at their November 2019 meeting:

Task	Overview	Indicative Timeframe
1) Delegated Decision taken: CPO made, Notices served and published	Once the delegated authority requested in recommendation 2.4 is exercised, the Council will make the CPO and notices will be served on all owners, leaseholders, tenants and occupiers of affected land as well as any party who may have the right to claim compensation. Press notices will be published and site notices posted. The CPO Order, Statement of Reasons and other documents are made public and placed on deposit to view during the objection period that follows.	December 2019
2) Period for objections	Within the notices served, press notice and site notice we will specify a time within which objections to the CPO can be made. This is a minimum of 21 days – it is anticipated the Council will allow longer, typically 28 days, to allow for the Christmas break.	January/February 2020
3) Preparation of documents	In parallel and during the objection period, the Council will prepare documents that form a Statement of Case for making a CPO, for submission in the event that objections are made.	January/ February 2020
3a) Objections note	In the event that no objections are made, see Task 6.	

Task	Overview	Indicative Timeframe
4) Submission of Statement of Case (if required)	<p>Objections to the CPO are made direct to Secretary of State. If valid objections are made it is likely the Secretary of State will require a Local Public Inquiry (CPO Inquiry) to be held, presided over by an Inspector. On giving notice that an inquiry is to be held the Council will be required within 6 weeks to prepare and serve on all objectors its Statement of Case for making and seeking confirmation of the CPO.</p>	April/May 2020
5) CPO Public Inquiry (if required)	<p>Following submission of the Statement of Case, the CPO Inquiry will be arranged. The Council and objectors will have the opportunity to put their case forward to the Inspector. Depending on the number and nature of the objections, the Inspector may decide to proceed via Written Representations only.</p> <p>(This is the most difficult time period to predict as it is down the availability of inspectors, their workload and the number of objections made).</p>	August/September 2020
6) Inquiry conclusion / decision	<p>Following the CPO Inquiry the inspector prepares a report, which is then considered by the Secretary of State. The report will make a recommendation as to whether to confirm the CPO. The Secretary of State will confirm the CPO, confirm with modifications or decline to confirm the CPO.</p>	January/February 2021

Task	Overview	Indicative Timeframe
7) Post decision	If confirmed (with or without modifications) then CPO powers will be confirmed or grant powers to the Council. The Council is required to publicise the decision – objectors may object to the High Court on a point of law within 6 weeks (the judicial review period). The Council will then have a period of 3 years within which implement the confirmed CPO.	March 2021 onwards
8) Implementation stage	Prepare, establish and implement the General Vesting Declaration (GVD) - this process takes around 4 months to complete to secure ownership of the land.	To be completed no later than March 2022

CPO Implementation and asset management approach

- 4.15 The Council has a duty to take reasonable steps to acquire by agreement (where possible) in advance of and during the CPO process. This obligation is ongoing up until the date of the Local Public Inquiry. If interests are acquired by negotiation and associated objections are subsequently withdrawn prior to the date of the Local Public Inquiry, the Council will still be required to pay reasonable third party professional fees associated with the acquisition. The Council is not, however, required to pay third party fees incurred by objectors relating to the cost of appearing and presenting their case at the Inquiry. The Financial Implications at Section 7 therefore detail the appropriate allowances for professional fees incurred and to be paid by the Council.
- 4.16 Once the CPO process has been completed and if the CPO is subsequently confirmed by the Secretary of State, the Council will then have the authority to acquire all the freehold and long leasehold interests comprised within the boundary of the CPO.

- 4.17 The Council will seek to minimise holding costs including business rates, works to secure vacant buildings, insurance, security and the cost of removing fly tipping and of dealing with anti-social behaviour by seeking to retain occupation for as long as possible until possession is required for development purposes. Whether acquisitions are achieved through mutual agreement or compulsory purchase, there are a number of prudent asset management principles that the Council will seek to implement in respect of the land and property acquired. These are:
- i. to keep the buildings occupied for as long as possible, to generate income, to keep the holding costs to a minimum and for the benefits of adjacent occupiers, both commercial and residential.
 - ii. where feasible, upon acquisition, let the properties on a short term basis to the existing occupiers at a market rent with the tenant responsible for the cost of all outgoings.
 - iii. for vacant units, to secure new tenants on similar terms to (ii) above
 - iv. if the Council is unable to secure a tenant in a reasonable timescale, or if voids persist, then to consider demolishing any buildings on the land where the benefits of this are anticipated to be greater than the costs.
- 4.18 Once the Council has acquired all of the identified property interests within the Order Land, the Council will retain ownership of the 'HIF sites' identified on the plan in Appendix 3. These, together with the property assets already in Partner ownership will then be managed in accordance with the asset management principles identified in paragraph 4.17 until they are required for redevelopment by Compendium Living. The subsequent transfer to Compendium will be governed by the existing provisions of the Development Agreement. These are detailed within Section 11.6 in the dSofR (Appendix 1).
- 4.19 The remaining property interests acquired by the Council will immediately transfer to Compendium Living the 'non-HIF land' (see Appendix 3) at market value under a 'back to back' arrangement. Compendium will subsequently own and manage these properties until such time as they are redeveloped, which is likely to be towards the later phases of their development programme (2029-2030). To ensure these sites are redeveloped within this timescale, the Council will transfer sites subject to development obligations including buy-back provisions in favour of the Council should they ever be offered for sale or remain undeveloped. The principle of this approach is agreed with Compendium Living. Full Heads of Terms are currently being prepared and full contractual completion will need to be in place before the Council formally makes the CPO as detailed in paragraph 4.14. The cost of acquiring the 'non-HIF land' will be underwritten by the developer as described in Section 7.
- 4.20 The Financial Implications at Section 7 provides further details on the capital and revenue costs and associated funding.

Project governance

- 4.21 The project management of the CPO process will be undertaken by the Regeneration and Major Projects Service. A dedicated project manager will be responsible for day

to day management with oversight from a Principal Regeneration Manager or equivalent Council officer. The project delivery team will comprise officers from the Council's Strategic Asset Management and Estates Service together with external consultants to provide land valuation advice and legal advice, including representation by Legal Counsel.

- 4.22 Progress on the compulsory purchase will be reported to the Regeneration and Investment Board on a bi-monthly basis and to Corporate Property Board on a quarterly basis. In addition, partners in the development agreement for Castleward (Homes England and Compendium Living) are integrated into the governance for the project through a formal Steering Group, with progress reported on a quarterly basis.

Risks

- 4.23 The key financial, legal, reputational and delivery risks are summarised below:

Risk description	Impact	Mitigation
Should the Compulsory Purchase Order proceed to the Local Public Inquiry, there is a risk that The Order is not confirmed by the Secretary of State	<p>Costs incurred on progressing compulsory purchase would be abortive up to value of the fees expended (£488k) - professionals fees, to the extent they had been incurred would also be payable to objectors who had attended the inquiry; plus the cost of any negotiated acquisitions (adjusted for resale value); plus potential cost of acquisitions triggered by blight notices (which would have value).</p> <p>HIF funding would be lost (£7.5m) and the full costs of the primary school would be borne by the Council.</p> <p>Regeneration of Castleward would stall with consequential loss of new and affordable housing. The viability of the new school would be questionable.</p>	<p>A Robust Statement of Reasons, Statement of Case and evidence base presented at Inquiry.</p> <p>Extensive consultation with interests affected and detailed recording of this consultation</p> <p>Reasonable steps taken to negotiate the acquisition of interests by mutual agreement.</p> <p>Reasonable steps undertaken to signpost the availability of relocation premises</p>

<p>In order to rely on the powers sought under the Housing Acts 1985 the land acquired must be capable of being developed within 10 years from the date of grant of those powers.</p> <p>Under the Development Agreement with Compendium Living the Council is not in direct control of the pace at which the Scheme is developed.</p>	<p>The delivery of housing units is not achieved in line with the targets in the HIF funding agreement, with associated risk of clawback of funding.</p> <p>So as not to lose the ability to develop land acquired under the Housing Acts 1985, the Council may be forced to buy-back the Compendium Living Sites.</p>	<p>A realistic phasing programme of the area covered by the CPO has been developed in consultation with the Compendium Living</p> <p>The Project Team will continue to work closely with the Compendium Living to overcome development constraints and develop out as soon as each phase becomes viable.</p> <p>Land transferred to Compendium Living will continue to be subject to development obligations and specific buy-back clauses where required</p>
<p>The length of time that the Council will be required to hold land and buildings which have been acquired is longer than forecast.</p> <p>Actual costs associated with the asset management strategy are greater than estimates.</p>	<p>There would be a potentially higher holding cost than forecast which could create a budget pressure.</p> <p>There would be a resource implication for the Strategic Asset Management & Estates Service.</p>	<p>Prudent asset management measures will be in place prior to acquiring land (paragraph 4.17)</p> <p>In establishing the revenue costs for delivering the asset management approach, a prudent case and worst case scenario have been forecast as detailed in paragraph 7.10 and 7.11.</p> <p>Specialist advice has been provided by the council's Strategic Asset Management and Estates department in preparing the asset management approach to ensure the measures are robust and fit for purpose.</p>

<p>Cost of securing a CPO are higher than forecast.</p> <p>Actual costs required to implement the CPO are greater than valuation estimations.</p>	<p>Higher costs would result in a budget pressure</p> <p>Delivery stalls with consequent clawback risk if full output targets are not achieved.</p>	<p>The development agreement makes in-principle provision for the developer partner's underwriting of CPO costs; Compendium's contribution has been agreed in principle and will be contractually agreed prior to Making the Order.</p> <p>Independent advice has been sought to establish the land/property valuations which has been verified by the Council's Strategic Asset Management and Estates department.</p>
<p>A Deed of Variation to the Development Agreement establishing CPO under writing arrangements is not yet in place.</p>	<p>Risk that all funding is not in place to deliver CPO</p>	<p>Heads of Terms with Compendium Living are agreed in principle and will be contractually agreed in writing prior to making the CPO.</p>
<p>Reputational risk of job losses of the affected businesses.</p>	<p>Businesses that wish to, but not able to relocate, that wish to with potential consequent job losses</p>	<p>Advice and support for businesses.</p>

Public/stakeholder engagement

- 5.1 There has been and will continue to be public consultation as part of planning applications for development at CUV. Prior to submission of the outline planning application in 2013, extensive consultation was undertaken with local stakeholders, businesses, community groups and the general public in the Castleward area. Initial consultation in the form of questionnaires, events and focus groups was used to inform the preparation of the CUV Masterplan proposals. Following submission of future planning applications, the local planning authority will publicise and consult on the plans with the outcome reported in the officer's committee report.

- 5.2 Discussions have taken place with landowners, leaseholders and occupiers with a view to acquiring land by agreement and this has informed the dSoR for the proposed CPO Scheme. The following engagement activities have taken place over the previous 4 years:
- 2015 – 2018 – Initial conversations held with affected parties to discuss the forthcoming phases of the Castleward project, the likely timeline for implementation and the potential for early acquisition of land and properties.
 - Spring & Summer 2019 – One to one meetings with affected parties within the entire Castleward area including business owners, land owners, leaseholders and occupiers.
 - September 2019 – Business survey conducted by Ardent with the proposed Order Land (on behalf of the Council) to establish business activity, location requirements and numbers of employees.
 - October 2019 – Information event held with affected parties to feedback on work completed since November 2018 concerning the acquisition of land and properties and the potential use of CPO powers, the next steps in the process and to respond to questions from attendees.
- 5.3 The Council is committed to continuous engagement with all affected businesses to provide relevant information and reasonable relocation support, as well as using all reasonable endeavours to acquire land by mutual agreement.

Other options

- 6.1 The option of not pursuing a CPO and relying on land acquisition by agreement is highly unlikely to achieve the required land assembly, in time or at all, to continue regeneration and deliver the number of new, high quality market and affordable homes required in the Local Plan. Development of the CUV would at best be piecemeal and risk delivering the Local Plan target and City Centre Masterplan objectives. The Council would also risk losing significant funding from Homes England's HIF.
- 6.2 The in-principle Cabinet approval of November 2018 authorised preparatory work for a CPO covering the whole of the Castleward Urban Village area, less Phases 1 and 2 that are complete / underway. Subsequent land referencing, valuation work and legal advice have concluded that a case is justified for the CPO Scheme for the Order Land shown in Appendix 2, which covers part of the CUV regeneration area. The longer term intention remains however, to continue regeneration and redevelopment of the wider area. The proposed CPO Scheme therefore remains as a designated phase of the wider CUV. By proceeding in this fashion; any demonstrable, future increase in redevelopment value of the wider CUV regeneration area arising and therefore benefiting from public investment in the regeneration of the Order Land, can be discounted when the Council subsequently seeks to continue acquisitions.

Financial and value for money issues

7.1 The Land Referencing Exercise detailed in paragraph 4.4 has been undertaken for the entire Castleward Regeneration Area. This has been completed in accordance with the recommendations of the November 2018 Cabinet Approval and has determined cost assessments as follows:

- i. The total cost of acquisition inclusive of compensation and payment of third party legal and surveyor's fees should the Council wish to compulsory purchase the entire CUV area. This is currently estimated to be no less than £22.8 million. This report does not recommend the acquisition of the entire CUV Area.
- ii. The estimated cost of acquisition of, including compensation and payment of third party legal and surveyor's fees, the property interests within the Compulsory Purchase Order Scheme recommended in this report, together with all associated costs of enabling works and fees; which amounts to £8.482 million as included in Table 1 below.
- iii. The estimated capital cost to the Council of each individual property interest. This in turn is required to help identify and evaluate any incidence of injurious affection / disturbance that may occur. This may occur where, by acquiring a property interest within the Order Land there is an impact on the value or use of another property owned or occupied by that interested owner outside of the Order Land. We are not aware that this issue arises in these circumstances.

7.2 Table 1 below provides details of the estimated maximum capital cost and proposed funding to deliver the acquisitions within the Order Land.

Table 1	2019/20	2020/21	2021/22	2022/23 or later (up to 2027/28)	Total
	£'000s	£'000s	£'000s	£'000s	£'000s
Expenditure					
CPO Scheme Profile	131	3,216	3,273	1,862	8,482
Acquisition Funding					
Housing Infrastructure Fund	131	1955	914		3,000
Un ring-fenced HRA Right to Buy receipts		201	1,299		1,500
Capital receipt				500	500
Compendium Living contribution		1,060	1,060	1,362	3,482
Acquisition Funding Total	131	3,216	3,273	1,862	8,482

Capital costs

- 7.3 At this stage, a maximum SDLT liability of £221k has been included in the figures in Table 1 above. The Council is currently seeking further professional advice as to the level of SDLT relief that will apply to reduce or eliminate the SDLT cost assumed at this stage.
- 7.4 The estimated maximum capital acquisition cost for the Order Land has been determined by a Red Book valuation exercises completed Summer 2019 is £6.813m. It includes estimates of the market value of the land, compensation payments, disturbance costs to be reimbursed, third party professional fees and stamp duty land tax (SDLT). The maximum SDLT applicable is £221k, which may be reduced where land is required by compulsory purchase, when SDLT relief can be applied by the Council. Except for SDLT, acquisitions costs are the same whether incurred through the Council's preferred route (acquisition by mutual agreement) or through compulsory purchase.
- 7.5 There will also be professional costs incurred by the Council to confirm the CPO (as described at paragraph 4.14) and take the process beyond inquiry to execute the General Vesting Declaration (processing the compulsory purchases), estimated at £0.488m. These costs comprise internal Council costs (e.g. project management fees, asset management fees), estimated at £200,000 and external consultants (surveyor and legal fees) estimated at £288,000:
- Surveyors fees of £100k
 - Legal fees of £100k
 - Legal Counsel fees of £48k
 - Public Inquiry Costs (assuming a 4-day Inquiry) of £40k
- 7.6 In the event of the use of CPO powers, or where compensation claims are not settled in full, the normal practice just before the point of acquisition is for the Council to pay 90% of what it estimates the person claiming the compensation would be entitled to receive. The residual 10%, if due and payable, will then be settled at a later date, potentially by application to the Upper Tribunal (Lands Chamber). In some limited circumstances, this process can take up to six years to conclude. The underwriting facility from Compendium, including the contingency, will therefore be available until 2027/28 to facilitate the settlement of any outstanding claims. At this stage, the profile of capital expenditure is based upon an even spread of 90% of the acquisition costs to be paid by March 2022, the remaining 10% has been profiled to be spent in the period 2022/23 to March 2028 as a worst case scenario. Actual timing of spend will be dependent on individual agreements or compulsory acquisition from the affected occupiers and landowners.

Funding

- 7.7 A capital receipt of £500k from Compendium Living relating to the sale of the Bemrose School site is being treated as a ring-fenced Regeneration capital receipt for this Scheme in line with the Council's Capital Receipts policy. The receipt is due from Compendium Living no later than December 2020 to be used towards the cost of the

HIF area acquisitions or demolition and site enabling works.

- 7.8 Expenditure of the HIF grant of £3m has to be incurred by 31 March 2022 in accordance with the Homes England contracted deadline, with all delivery outputs by March 2030. A contribution of £1.5m unringfenced HRA Right to Buy receipts funding was approved in a related report to Cabinet in September 2019 regarding the new Castleward school.
- 7.9 As detailed in Table 1, the acquisition of all property interests (whether through negotiation or exercise of CPO powers) is the responsibility of the Council. The financing of certain acquisitions and associated costs will be provided by Compendium Living, who will establish an underwriting facility.

The underwriting facility is to be provided at a date to be agreed in sufficient time to indemnify the Council against the total acquisition cost. Written agreement from Compendium Living to this underwriting facility, including how it will be guaranteed, will need to be in place prior to the Council taking a delegated decision to make the CPO. The full contractual agreement will need to be in place, at the very latest, by the date that any CPO Local Public Inquiry commences.

Revenue implications

- 7.10 There will be a loss of ground rent from current leases with the Council as a result of some of the land acquisitions. This will generate a permanent £40k per annum revenue budget pressure based on a full year and it is proposed to build this pressure into the MTFP from 2020/21. The actual loss of ground rent will depend on the timing of individual land acquisitions.
- 7.11 There will also be temporary revenue implications as a consequence of the asset management measures required for the HIF funded part of the Order Land, and all measures will be utilised to try and avoid any net revenue cost. There should be new rental income through short term tenancies with no security of tenure up to March 2028, but also asset management and void costs could arise during the holding period, the scale of which will be dependent on the timing of individual land acquisitions and subsequent land disposal to Compendium Living for housing development. The non HIF area acquisitions will be transferred to Compendium Living at the point of acquisition so will not result in any holding costs for the Council.

Tables 2 and 3 below provides estimates of the range of temporary net revenue income that could arise, based on a range of assumed occupancy levels up to the date by which time property interests are expected to be demolished and ready for development.

Table 2: Scenario 1 – 100% occupancy	Total for the period 2020/21 - 2027/28 £'000s
New temporary rental income	(710)
Less estate management costs and general void	355

provision	
Net revenue income	(355)

Table 3: Scenario 2 – 50% occupancy	Total for the period 2020/21 - 2027/28 £'000s
New temporary rental income	(354)
Less estate management costs and general void provision	177
Net revenue income	(177)

Should there be a net revenue income in any year during the holding period, it is proposed to hold this in an earmarked reserve to help fund site enabling works. Any net revenue surplus at the end of the holding period will be transferred to corporate reserves. Should there be however, an overall net revenue shortfall after asset management strategies have been implemented, this will need to be considered within Directorate budgets in the first instance. The £0.5m site enabling allowance included in the capital cost should be used to demolish vacant properties, especially where these will be required for the subsequent phase of development.

- 7.12 This scheme could cause us to breach our 5% threshold unless we opt to tax the sites we need to acquire. A breach would mean we cannot reclaim the VAT incurred on land acquisition, holding costs and onward selling costs. It would also have a knock-on effect on VAT yet to be incurred on some other major capital schemes and some service revenue budgets, which would also become irrecoverable. Opting to tax the Castleward purchases would help us stay below 5% and allow us to reclaim the VAT incurred. Opting to tax means that we will charge our short term tenants during the holding period 20% VAT on their rent and service charges and on the eventual sale to Compendium. The majority of those tenants we would want to attract are likely to be VAT registered and able to reclaim some, if not all, of the VAT they pay to us and so opting to tax should not present them with a VAT problem. Compendium too should not have a problem with us opting to tax.

Legal implications

- 8.1 Part 3 of the dSoR details the enabling powers, namely section 17 Housing Act 1985 and section 13 Local Government (Miscellaneous Provisions) Act 1976, which empower the Council to acquire the land required for the CPO Scheme.

- 8.2 Continued detailed legal advice will be required to progress the CPO. This advice will be sourced through the East Midlands Law Share Framework and instructed through the Council's Legal Services team.

Other significant implications

Equalities impact

- 9.1 An Equalities Impact Assessment has been prepared as part of the CPO work undertaken to date. The assessment will be used to inform the CPO work described in this report and will be updated where appropriate.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal	Stephen Teasedale, Solicitor	23 October 2019
Finance	Simon Riley, Director of Finance	24 October 2019
Service Director(s)	Greg Jennings, Director of City Development and Growth	22 October 2019
Report sponsor	Rachel North, Strategic Director for Communities and Place	24 October 2019
Other(s)	Jayne Sowerby-Warrington, Head of Estates and Asset Management	24 October 2019

Background papers:	Council Cabinet November 2018 – Item 17 (Castleward Urban Village – Future Phases) Council Cabinet September 2019 – Item 14 (Castleward – Next Steps)
List of appendices:	Appendix 1 - Draft Statement of Reasons Appendix 2 – The Order Land Appendix 3 – Funding the Scheme Appendix 4 – Equalities Impact Assessment