



Derby City Council

COUNCIL CABINET
14 November 2018

ITEM 17

Report of the Strategic Director of Communities
and Place

Castleward Urban Village – Future Phases

SUMMARY

- 1.1 The regeneration of Castleward is a priority project in the Derby City Centre Masterplan 2030 and important in achieving the housing targets in the Derby City Local Plan (2011-2028). A Masterplan for Castleward secured outline planning permission in 2013, with delivery of new homes planned in 5 phases. Phase 1 is successfully complete (164 new homes) with Phase 2 expected to commence in Autumn 2018. This report outlines recommendations to ensure that future phases 3-5 proceed and deliver at least 800 new homes in line with the targets in the Local Plan.
- 1.2 A Compulsory Purchase Order (CPO) may be required to enable land assembly for future phases of development at Castleward. This report seeks Cabinet's in principle approval to use the council's compulsory purchase powers if necessary, and outlines the work required to develop a CPO application. The report recommends that a land referencing exercise is undertaken to identify all land interests within the proposed CPO boundary (see Appendix 2). Work will also be undertaken to identify potential acquisition and compensations costs associated with a CPO. A further report will be brought back to Cabinet in Summer 2019 outlining the CPO statement of case and seeking final approval to apply for the CPO.
- 1.3 In advance of a CPO approval, the Council will endeavour to continue negotiations with landowners to acquire land by agreement (which in any case is required as part of the CPO case). This report seeks delegated approval to progress these negotiations and acquire land, subject to a final award of Housing Infrastructure Fund (HIF) from Homes England.
- 1.4 There are a number of related issues that must be resolved in order to proceed with a CPO application. These include the signing of a funding agreement for the Housing Infrastructure Fund award for Castleward and determining a funding package and delivery mechanism for a new primary school. These are described in more detail at Appendix 3.

RECOMMENDATION

- 2.1 To approve, in principle, the use of compulsory purchase powers in relation to the area identified in Appendix 2 (“the Land”) pursuant to section 226(1)(a) of the Town and Country Planning Act 1990, on the basis that the acquisition of the Land to develop phases 3-5 of Castleward would contribute to the achievement of the economic, social and environmental well-being of the area.
- 2.2 To delegate to the Director of Development and Growth, authority to:
- (a) carry out a land referencing exercise, including the procurement of any services required to complete this;
 - (b) issue notices requisitioning information from persons in relation to the Land pursuant to Section 16 of the Local Government (Miscellaneous Provisions) Act 1976; and
 - (c) to enter on to the Land for the purposes of carrying out surveys pursuant to Section 172 of the Housing and Planning Act 2016 and such other actions as may be necessary to progress a CPO.
- 2.3 To note that a further Cabinet Report will follow in Summer 2019 that will detail the land proposed to be subject of a CPO, the final CPO strategy and process, and a statement of reasons justifying the use of the CPO powers.
- 2.4 To delegate to the Strategic Director of Corporate Resources following 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, authority to acquire land on such terms as is considered appropriate in Castleward, for achieving the objectives of the City Centre Masterplan 2030 and Local Plan, subject to the HIF funding award.
- 2.5 To delegate authority to the Strategic Director for Communities and Place and the Strategic Director for Corporate Resources, following consultation with the Cabinet Member for Regeneration and Public Protection, the Cabinet Member for Adults, Health and Housing and the Cabinet Member for Governance and Licensing to negotiate terms and enter into development agreements with third parties for delivery of housing development at Castleward.

REASONS FOR RECOMMENDATION

- 3.1 These are the steps needed to continue the development of Castleward.
- 3.2 The approach we are proposing in this report mitigates risk to the Council.

SUPPORTING INFORMATION

Background

- 4.1 The key partners in the delivery of Castleward are Derby City Council, Homes England and Compendium Living who were appointed as developer partner for Castleward in 2011. Castleward Phase 1 created 164 new homes and 12 commercial units alongside quality public realm and was an important 'market maker' for quality city centre housing. Phase 2 is about to start on site with Compendium Living launching development of 54 homes and a planning application submitted from Elevate for up to 180 homes. Phases 1 and 2 have been predominantly undertaken on land already in partner ownership. The Local Plan Target for Castleward expects at least 800 new housing completions by 2028, including affordable housing.

Compulsory Purchase Order (CPO)

- 4.2 Phases 3 – 5 of Castleward are across land currently owned by multiple businesses and organisations. There is a need for the Council to exercise its compulsory purchase powers as there is insufficient land in the control of partners to facilitate the delivery of any further homes beyond Phase 2. A Comprehensive Regeneration argument is required to justify a CPO for the whole Castleward Masterplan area (see Appendix 2), albeit with some exclusions of existing housing, the petrol station and the proposed school site. The use of compulsory purchase powers to ensure delivery and a comprehensive development is supported in the Derby City Local Plan.
- 4.3 In order to prepare for a CPO, an immediate exercise to reference land interests and calculate potential acquisition and compensation costs is required, expected to cost £100,000. This work is required in order to inform the CPO programme / timescales. It therefore needs to proceed 'at risk' and it is proposed to use funding on the Capital Programme allocated for feasibility studies to undertake this work. There is an abortive cost risk attached to this spend – if the council do not ultimately apply for or gain approval for a CPO then this spend will be abortive.
- 4.4 Officers from Regeneration, Legal and Property services will work on the justification for compulsory purchase and the best approach for achieving it over the coming months. This will inform the statement of case that will need to be approved by Cabinet before proceeding with a formal CPO application. The final CPO boundary will also be identified as part of this exercise.
- 4.5 Other workstreams will include:
- Issuing notices requisitioning information from persons in relation to the Land pursuant to Section 16 of the Local Government (Miscellaneous Provisions) Act 1976
 - Pre-site investigation surveys on to the Land for the purposes of carrying out surveys pursuant to Section 172 of the Housing and Planning Act 2016

- Developing Asset Management Strategies (e.g. use of sale and lease back) to mitigate holding costs. Our priority approach will be to pursue back to back deals with the developer partner to eliminate the need for the Council to hold land.
 - Potential amendments to the Masterplan and introduction of higher value, higher density development uses (e.g. Private Rented Schemes).
 - Support for affected businesses through a relocation strategy with support from Marketing Derby and the D2N2 Growth Hub.
- 4.6 Negotiations with landowners will continue in parallel to pursuing a CPO. Delegated approval is sought from Cabinet to proceed with the Council's acquisition of sites subject to a final award of funding from the Housing Infrastructure Fund. Officers will also explore an Option to Acquire until alternative premises are secured by occupiers or an approved development scheme from Compendium Living is ready to proceed.
- 4.7 In 2008, Cabinet approved departure from the Council's capital receipts policy and agreed the recycling any capital receipts within the Castleward development. It is intended that this approach will continue and this has support from the Council's S151 officer in line with the Council's Capital Receipts policy.
- 4.8 Cabinet is advised that there are a number of related issues that must be resolved in order to proceed with a CPO application. These include securing a funding agreement for a Housing Infrastructure Fund award to the Castleward scheme and determining a funding package and delivery mechanism for a new primary school. These are described in more detail at Appendix 3.

OTHER OPTIONS CONSIDERED

- 5.1 The option of doing nothing would put at risk the delivery of the Castleward Urban Village, which is essential in achieving our Local Plan targets and City Centre Masterplan objectives. We would also risk losing significant funding from Homes England's Housing Infrastructure Fund.
- 5.2 The option of not pursuing a Compulsory Purchase Order and relying on land acquisition by agreement is highly unlikely to achieve the required land assembly, in time or at all, to accommodate the number of homes required in the Local Plan.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Env Sustainability officer Risk Management officer Service Director(s)	Olu Idowu (Head of Legal Services) Don McLure (Strategic Director of Resources) No implications John Sadler (Corporate Asset Manager) Andrew Waterhouse (Spatial Planning Group Manager) Heather Greenan (Head of Performance & Intelligence) Greg Jennings (Director of Development & Growth) Gurmail Nizzer (Director of Commissioning)
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List of appendices:	Appendix 1: Implications Appendix 2: Castleward CPO boundary plan Appendix 3: Castleward: Related Issues (Not for publication)
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IMPLICATIONS

Financial and Value for Money

- 1.1 In order to progress the first phase of land referencing and costing work towards a CPO, expenditure of £100k is required. This will be funded from the feasibility study allocation on the Corporate Capital Programme.
- 1.2 An investment appraisal will be developed as part of the business case to Cabinet for a) proceeding with a CPO and b) developing the new primary school.

Legal

- 2.1 Detailed legal advice will be required to develop the statement of case for progressing a CPO. This advice will be sourced through the EM Law Share Framework and instructed through the Council's Legal Services team.
- 2.2 The Council has powers under section 226(1)(a) of the Town and Country Planning Act 1990 to compulsorily acquire land for the purposes of the development, redevelopment and improvement that would contribute to the achievement of the economic, social and environmental well-being of the area.

Personnel

- 3.1 No implications arising directly from this report.

IT

- 4.1 No implications arising directly from this report.

Equalities Impact

- 5.1 No implications arising directly from this report. The Castleward Regeneration project will provide a positive regeneration project with which to strengthen the Council's approach to valuing diversity and creating opportunities for all our residents. An Equality Impact Assessment will be completed as part of the preparation for a CPO application.

Health and Safety

- 6.1 No implications arising directly from this report.

Environmental Sustainability

- 7.1 The Castleward regeneration project will:

- Remediate existing brownfield sites
- Create a sustainable development including new Primary school
- Improve the built environment and townscape character
- Provide Landscape enhancement
- Continue to improve pedestrian infrastructure and cycle links, with priority over the vehicles.

7.2 Castleward was only the second housing scheme in the U.K. to achieve BREEAM (Building Research Establishment's Environmental Assessment Method) Communities Standard, which seeks to measure and certify the social, environmental and economic sustainability of large-scale development plans.

Property and Asset Management

8.1 Progressing further phases of development at Castleward will require the use of the Council's compulsory purchase powers and through this, or negotiation, the acquisition of land. The Council's Estates and Asset Management Service are and will continue to be involved in the development of the Council's statement of case and CPO process and will lead the acquisition of sites.

Risk Management and Safeguarding

9.1 The key risk associated with the approvals sought in this report is that the £100k of spend on developing a CPO strategy is abortive if we are unable to build a robust case for CPO or if the HIF funding agreement is not signed. This is mitigated by use of a corporate revenue budget for feasibility work.

Corporate objectives and priorities for change

10.1 Continuation of the Castleward regeneration scheme contributes to the Council Plan 2016-19's priority outcome of supporting job creation and regeneration' priority outcome.