

DATED

2022

THE COUNCIL OF THE CITY OF COVENTRY

**STATEMENT OF REASONS
ACCOMPANYING THE MAKING OF:
THE COUNCIL OF THE CITY OF COVENTRY
(SPON END) COMPULSORY PURCHASE
ORDER 2022**



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1. INTRODUCTION

- 1.1 On 21 July 2020 the Council of the City of Coventry (the "**Council**") approved in principle the use of compulsory purchase powers in connection with proposed works to widen Spon End in line with the Coventry Local Air Quality Action Plan (the "**LAQAP**") and delegated authority to the Director of Transportation and Highways and the Director of Finance (following consultation with the Director of Law and Government) to finalise the Order Map, the Statement of Reasons and the CPO and to take all necessary steps to secure the making and confirmation of the CPO.
- 1.2 The Director of Transportation and Highways, on 2 February 2022, authorised the making of the Coventry City Council (Spon End) Compulsory Purchase Order 2022 (the "**CPO**") and its submission to the Secretary of State for confirmation, the Council being of the view that the proposed acquisition will facilitate the carrying out of development, redevelopment, or improvement on or in relation to land and will contribute to the achievement of the promotion or improvement of the economic and/or, social, and/or environmental well-being of the Council area. The CPO was sealed on 3 February 2022.
- 1.3 The CPO is being submitted to the Secretary of State for Levelling Up, Housing and Communities for confirmation pursuant to the Acquisition of Land Act 1981. If confirmed by the Secretary of State the CPO will enable the Council to acquire compulsorily the land included in the Order.
- 1.4 The Council recognises that a compulsory purchase order can only be made if there is a compelling case in the public interest (paragraphs 2 and 12 of the Government Guidance on Compulsory Purchase dated July 2019) (the "**Guidance**") which justifies the overriding of private rights in the land sought to be acquired. The Council considers that a clear and compelling case in the public interest exists for making the Order, as described in the following paragraphs of this Statement of Reasons (the "**Statement**") set out below.
- 1.5 This Statement is a non-statutory statement provided in compliance with paragraph 25 of the Guidance to accompany the making of the CPO. In preparing the Statement, the Council has provided sufficient information so that its reasons for making the CPO can be properly understood.
- 1.6 The following terms are regularly used in this Statement:-
- 1.6.1 the Town and Country Planning Act 1990 (the "**Act**");
- 1.6.2 B4101 at Spon End: the road as described in paragraph 4.1 ("**B4101 at Spon End**");
- 1.6.3 The Scheme: the works described at paragraphs 4.1 to 4.9 together with the works and actions necessary to complete the Order (the "**Scheme**");
- 1.6.4 The Order Land: the parcels of land described at paragraphs 4.10 to 4.15 (the "**Order Land**");
- 1.6.5 the LAQAP, as described in paragraphs 3.3 to 3.6; and
- 1.6.6 the Environment Act 1995 (Coventry City Council) Air Quality Direction 2020 (the "**Direction**"), as described in paragraph 3.3 and attached in Appendix 1.

2. THE ENABLING POWERS

- 2.1 The CPO is made pursuant to section 226 of the Act (in respect of the acquisition of land).
- 2.2 Section 226(1)(a) of the Act authorises the compulsory acquisition of land where an acquiring authority thinks the acquisition will facilitate the carrying out of development, redevelopment, or improvement on or in relation to the Order Land and where the acquiring authority thinks the development, redevelopment or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the authority's

area. The Guidance provides guidance to acquiring authorities on the use of compulsory purchase powers and the Council has taken full account of this in making this Order.

- 2.3 For the reasons set out in this Statement, the Council considers that the acquisition of the Order Land is needed to secure the proposed works to widen Spon End in line with the LAQAP, which will thereby result in an improvement to the air quality of the area covered by said Plan.
- 2.4 The Guidance on Compulsory Purchase Process and the Criche! Down Rules (the "**CPO Circular**") explains that when deciding on whether to confirm a CPO under section 226 of the Act, the Secretary of State is expected to consider whether the purpose for which the land is being acquired fits in with the Local Plan for the area. The CPO Circular states that the powers are expressed in wide terms and can therefore be used to assemble land for regeneration and other schemes where the range of activities or purposes proposed meant that no other single specific compulsory purchase power would be appropriate.
- 2.5 Paragraph 96 of the CPO Circular states that the section 226 power should not be used in place of other more appropriate enabling powers. Section 239(1) of the Highways Act 1980 enables a highway authority to acquire land required for the construction of a highway which is to be a highway maintainable at the public expense, other than a trunk road. Section 238(1) of the Highways Act 1980 confirms that this power is exercisable compulsorily or by agreement. However, the underlying purpose of acquiring the Order Land is to reduce exceedances of the annual mean NO₂ Limit Value in Coventry (and particularly the exceedances on Holyhead Road), and this is proposed to be achieved through a combination of measures including the widening of the B4101 at Spon End, so the purpose of the scheme is not a pure highway purpose. On that basis, the power under section 226(1)(a) of the Act, directed at improvements to economic, social or environmental well-being of the authority's area is more appropriate.
- 2.6 The CPO Circular provides guidance to acquiring authorities on the use of compulsory purchase powers and the Council has taken full account of this guidance in making this Order. The Council is utilising its powers under section 226(1)(a) because it is not certain it will be able to acquire the land by agreement, although efforts will continue in parallel with this process. The purpose in seeking to acquire the Order Land and utilising section 226(1)(a) is set out in detail below.
- 2.7 In exercising its powers of compulsory purchase the Council is satisfied that there is a compelling case in the public interest for such exercise and that the public interest is sufficiently important to justify the interference with private rights.

3. **BACKGROUND TO THE ORDER**

- 3.1 In July 2017 the Government published the 'United Kingdom Plan for tackling roadside nitrogen dioxide (NO₂) concentrations' in response to growing concerns about the impact on the nation's health. One of the actions set out in the Plan was to "*require local authorities to implement chosen measures to achieve statutory NO₂ Limit Values within the shortest possible timescales*". Coventry was named as one of 22 towns and cities within the UK where NO₂ levels are forecast to exceed legal limits by 2020, and was required to produce a local action plan by March 2018.
- 3.2 The Government established a Joint Air Quality Unit (a joint venture between Defra and the DfT) to deliver the Government's NO₂ reduction strategies, and to work with the relevant local authorities to develop LAQAP to achieve the legal limits for NO₂ in the shortest possible time.
- 3.3 The Council has prepared and consulted on a LAQAP in March 2018. In February 2019, the Council submitted its Outline Business Case and modelling to the Government, and the Government confirmed that the package of measures put forward by the Council would be effective in reducing NO₂ levels. On 12th February 2020, the Parliamentary Secretary of State for the Environment issued the Direction. This Direction applies to the Council and directs the Council to implement the LAQAP. The Direction requires the Council to have delivered the LAQAP in the shortest time possible.
- 3.4 The Council has now prepared a Full Business Case for the LAQAP which was approved by Cabinet on 1 December 2020 and submitted to the Secretary of State on 4 March 2021.

- 3.5 The key benefits resulting from the LAQAP are:
- 3.5.1 Significant improvement in air quality, with the consequent improvement in health and wellbeing of citizens and visitors. This will reduce the increased risk of asthma, heart disease, strokes, lung disease and dementia associated with poor air quality; and
 - 3.5.2 As part of the package of works proposed under the LAQAP, the capacity improvements at Spon End will avoid the damaging alternative of a Clean Air Zone ("**CAZ**") Direction. The CAZ would significantly disadvantage less well-off citizens within the charging zone, who may be less able to afford to upgrade their vehicle to a modern compliant vehicle. This is described further in paragraph 8.1
 - 3.5.3 Improvements to infrastructure for walking and cycling in the area which will promote active travel, bringing health and wellbeing benefits.
- 3.6 There are three main elements of the package of measures set out in the LAQAP:
- 3.6.1 Reducing the level of car traffic by encouraging modal shift to sustainable and active modes of travel such as walking, cycling and public transport through infrastructure improvements (a new, fully segregated, cycle route linking the city centre with Coundon), and through engagement with schools, businesses and local communities to promote sustainable and active travel, especially for shorter, local, journeys.
 - 3.6.2 Reducing the number of older, more polluting, vehicles on the transport network by encouraging people and businesses to invest in low emission vehicles through a range of incentive schemes and initiatives. This includes the promotion of electric cars, buses, taxis and commercial vehicles.
 - 3.6.3 Enabling dynamic traffic management on the key routes into the city, notably Holyhead Road and Foleshill Road, by implementing highway improvements on these and parallel corridors to reduce traffic congestion (and therefore vehicle emissions). The specific improvements are focussed on the B4101 at Spon End and Junction 7 on the ring road, the Holyhead Road / Barras Lane / Upper Hill Street area, and on Foleshill Road.
- 3.7 The CPO has been made in connection with the third element of the LAQAP package, and includes targeted junction and road layout changes at Spon End, to enable use of Spon End as part of a parallel route to Holyhead Rd to allow freer-flowing traffic, reduce congestion and to provide better walking and cycling routes from Spon End into the city. These measures will allow the traffic flows on Holyhead Road to be reduced through time-based restrictions to allow NO₂ levels on this route to achieve compliance, while ensuring that non-compliance is not simply relocated to another part of Coventry. The CPO has been made to enable delivery of the highway improvements on the B4101 at Spon End, which is an integral part of providing substantial improvements to air quality and public health within Coventry.
- 3.8 Central Government has awarded the Council £24.447 million in grant funding from the Air Quality Implementation Fund to implement the LAQAP. Additionally the West Midlands Combined Authority has provided a grant of £5.8m under the Transforming Cities Fund.

4. **GENERAL DESCRIPTION OF THE SCHEME AND THE ORDER LAND**

Spon End

- 4.1 The Council intends to widen the B4101 at Spon End between Hearsall Road junction and Windsor Street junction - a stretch of road that is approximately 485 metres in length.
- 4.2 The works will include the construction of a new two lane section of highway which will pass under one of the arches of the railway viaduct at Spon End (the B4101 currently uses a single arch of the

viaduct). The works are shown in the General Arrangement Drawings at Appendix 2, and will consist of:

- 4.2.1 Approximately 987m² of new and/or widened carriageway
- 4.2.2 Approximately 805m² of new footway
- 4.2.3 New kerbs and highway drainage
- 4.2.4 Street lighting and new and/or upgraded traffic signals
- 4.2.5 Demolition of the former Black Horse public house;
- 4.2.6 Upgrading of two pedestrian crossings
- 4.2.7 Upgrading of two signalised junctions

- 4.3 These works comprise the "Scheme" for the purposes of the CPO, and are shown on the General Arrangement Drawing appending to this Statement at Appendix 2.

Wider Scheme

- 4.4 The Scheme is part of the Council's wider proposals to improve air quality by making changes to the road network in Coventry. The LAQAP also proposes works in two other areas in Coventry:

- 4.4.1 Ring Road Junction 7; and
- 4.4.2 Upper Hill Street/Barras Lane.

- 4.5 To remodel Ring Road Junction 7 the Council proposes to:

- 4.5.1 remove the existing roundabout and replace with a new, more direct, road layout controlled by traffic lights providing more direct routes for pedestrians and cyclists to and from the city centre;
- 4.5.2 close the existing subways;
- 4.5.3 remove the existing car park and raise the ground levels to enable the new junction layout;
- 4.5.4 create spaces with landscaping and planting for wildlife to transform the area which is currently dominated by vehicular traffic; and
- 4.5.5 provide direct walking and cycling routes with toucan crossings to make it easier for people to cross the junction.

- 4.6 At Upper Hill Street/Barras Lane, the Council proposes to:

- 4.6.1 close the right turn from Holyhead Road to Barras Lane and remove one of the key congestion points in the city;
- 4.6.2 create a left-turn from the Ring Road slip road into Upper Hill Street to enable the removal of the right-turn movement from Holyhead Road to Barras Lane;
- 4.6.3 make Barras Lane (Upper Hill Street side) one way from Coundon Road to Holyhead Road;
- 4.6.4 remove the signalised junction at the junction of Holyhead Road and Barras Lane, but the pedestrian crossing across Holyhead Road will remain;

- 4.6.5 narrow Holyhead Road between Barras Lane and the Ring Road and provide landscaping and pull in bays;
 - 4.6.6 provide parking bays on Barras Lane;
 - 4.6.7 remove the car park on Upper Hill Street (near to St. Osburg's school) and replace with landscaping;
 - 4.6.8 remove the parking bays on Upper Hill Street near to the school between the Ring Road and school entrance;
 - 4.6.9 provide a pedestrian crossing in Upper Hill Street outside St. Osburg's School;
 - 4.6.10 complete the segregated cycleway from the rail crossing at Coundon Road to link with the Hill Street Bridge; and
 - 4.6.11 provide a new signalised junction at the Upper Hill Street / Barras Lane / Coundon Road / Abbots Lane junction.
- 4.7 The Council will also introduce Variable Message Signs and associated cameras on the approaches to Holyhead Road and Allesley Old Road to direct traffic along the best route to manage air quality in both areas.
- 4.8 The effect of the Scheme and the Wider Scheme will be to:
- 4.8.1 reduce harmful nitrogen dioxide pollution levels to within national limits;
 - 4.8.2 balance traffic flow along alternative routes in order to reduce traffic congestion and pollution levels;
 - 4.8.3 improve the street scene particularly at Junction 7 to provide an attractive gateway from Spon End into the city centre; and
 - 4.8.4 improve cycling and walking facilities.
- 4.9 The Wider Scheme will be funded from a grant from central government's Air Quality Implementation Fund and a grant from the Transforming Cities Fund.

The Order Land

- 4.10 The land required to construct and thereafter maintain the Scheme is set out in the CPO and shown on the Order Map.
- 4.11 The Order Land lies approximately 1.3km from Coventry city centre, and comprises 8 plots of land along the northern side of the existing B4101 at Spon End, as more particularly shown on the Order Maps.
- 4.12 The Council seeks to acquire all rights and interests in an area of land totalling approximately 977 square metres, split across 8 plots. 7 of the plots comprise hardstanding and car parking areas outside properties along the B4101. Plot 2 also includes the acquisition of the former Black Horse public house, which will require demolition to facilitate the widening of the highway in that location.
- 4.13 The Black Horse public house was statutorily listed by Historic England in 2011, but was removed in March 2012. It is not statutorily designated and was considered at the time of being delisted as being of a significance below that of a listed building. In February 2015, an application for change of use from public house to a house of multiple occupation ("HMO") was granted for the Black Horse public house. Upon its conversion to a HMO, the majority of the features of interest (primarily internal features of the public house dating from the 1920s, which was a key reason for its original listing) were largely stripped out.

- 4.14 The route of the realigned road will run under the existing railway viaduct structure at Spon End, which is owned and maintained by Network Rail. The Order Land excludes all interests owned by Network Rail. The Council is in ongoing dialogue with Network Rail in relation to an asset protection agreement to ensure that there will be no adverse impact on the operation of the railway as a result of the construction of the proposed highway works.

Special Considerations Affecting the Order Land

- 4.14.1 There are no listed buildings or scheduled monuments within the Order Land, and none of the Order Land is within a conservation area.

4.15 Special categories of land

- 4.15.1 There is no land within the Order Land which is owned by another local authority, by the National Trust or which forms part of a common, open space land or fuel or field garden allotment.
- 4.15.2 The Order Land does not include any land which is owned by statutory undertakers. A number of statutory undertakers have apparatus in the highway in the vicinity of the Order Land. There are no proposals to extinguish any rights belonging to statutory undertakers. Any required diversions of utility apparatus in the existing highway will be dealt with under the provisions of the New Roads & Street Works Act 1991.
- 4.15.3 There are no known Crown interests within the Order Land.
- 4.15.4 There is no consecrated land within the Order Land.

5. THE COUNCIL'S PURPOSE AND JUSTIFICATION IN MAKING THE ORDER

- 5.1 As set out in the LAQAP, the capacity improvements proposed at Spon End are part of the proposals designed to reduce NO₂ PCM non-compliance in Coventry (with particular interventions needed on Holyhead Road), and are part of a wider package of measures under the LAQAP. The Council thinks that the Order and the Scheme will facilitate the improvement of the economic, social and environmental well-being of its area.
- 5.2 The capacity improvements proposed at Spon End are fundamental to the success of the overall LAQAP package of measures as the current road layout of Spon End cannot accommodate the additional traffic to be diverted from Holyhead Road (to solve the exceedance there) without causing an additional modelled exceedance on Spon End (essentially transferring the air quality problem from Holyhead Road to Spon End). The Scheme is therefore crucial to ensure that compliance with the EU Limit Value is achieved to allow the Council to meet its Ministerial Direction.
- 5.3 The Council is a partner of the Low Emissions Town and Cities Programme and is working together with other West Midlands authorities to improve air quality and reduce emissions from road transport. This partnership will work in managing the air quality across Coventry. Capacity improvements on the B4101 through to Spon End to allow for traffic transfer from Holyhead Road onto the Allesley Old Road towards the city centre from the west, is a key element of the Council's strategy.
- 5.4 The B4101 route will provide a key alternative to the A4114 with traffic advised to use the B4101, as necessary, when peak time and additional interpeak restrictions are in place on the eastern section of the Holyhead Road. This signage will be located before the decision point for the routes at both the Pickford Way and ring road ends of the routes to influence route choice in both directions of travel. The advisory route selected will depend upon the level of pollution recorded on both routes, ensuring that through traffic can be directed to the most appropriate route for the conditions. This dynamic traffic management approach will be reinforced, as necessary, by associated traffic restrictions to ensure effectiveness. This strategy can only function if the Spon End route has sufficient highway capacity to accommodate the likely traffic flows, reducing the level of congestion and through the widened road layout, increasing the source – receptor distance, so that new exceedances of the NO₂ legal limit are not created in Spon End. At the moment, the pinch point at

Spon End, resulting from the presence of the Black Horse Pub, would prevent the effective operation of this dynamic traffic management strategy.

- 5.5 Holyhead Road has the largest current exceedance of the legal limits in Coventry and therefore requires specific treatment. This is mainly focused on the relocation of traffic and queuing away from the air quality hotspot, and comprised the following traffic management and infrastructure projects:
- 5.5.1 Capacity improvements on the B4101 through Spon End (to allow for traffic transfer from Holyhead Road onto the Allesley Old Road route into the city from the west as part of the dynamic traffic management approach);
 - 5.5.2 Upgrade of ring road J7 to further support additional traffic rerouting on the B4101 through J7 rather than J8 (Holyhead Road), and to enhance the walking and cycling routes from Spon End into the city centre, providing the capability to encourage more local journeys to be made on foot or by bike. This again is fundamental to supporting the dynamic traffic management approach on the western approaches to the city centre;
 - 5.5.3 Upper Hill Street changed from a Left In/Left Out to a Left In only, including a revised layout with two lanes at the on-slip from Junction 8 to Upper Hill Street;
 - 5.5.4 Abbots Lane added as a closed link up to Mill Street to account for traffic movements expected at the junction between Coundon Road, Abbots Lane, Upper Hill Street and Barras Lane;
 - 5.5.5 Signalising the junction with Coundon Road, Abbots Lane, Upper Hill Street and Barras Lane;
 - 5.5.6 Barras Lane (Section north of Holyhead Rd) to Holyhead Road as a one-way, left out only turn. Traffic turning right from Holyhead Road northbound (south of Barras Lane) will not be allowed;
 - 5.5.7 new tidal closures on Holyhead Road between Alvis Retail Park to Barras Lane:
 - (a) AM peak inbound restrictions (07:00 to 10:00);
 - (b) No restrictions during the interpeak (10:00 to 16:00);
 - (c) PM peak outbound restrictions (16:00 to 19:00); and
 - (d) No restrictions in the off-peak (19:00 to 07:00).
 - 5.5.8 Changes to signal timings along the Foleshill Road corridor to make the route less attractive to vehicles in the AM and interpeak periods;
 - 5.5.9 Outbound restrictions on the section of Holyhead Road between the Inner Ring Road and Barras Lane between the AM, interpeak and PM peak periods (07:00 to 19:00).
- 5.6 A full business case commissioned by the Council in 2020 showed that this Scheme, including a range of other interventions, is expected to offer the best solution in terms of balancing air quality improvements and achieving social and economic objectives and effectively targeting exceedance hotspots. Under the LAQAP package of measures (including the Spon End scheme) Coventry would achieve compliance with the EU Limit Value in 2021 at all relevant modelled receptors, and so the LAQAP would achieve the “critical success factor” of compliance with the EU Limit Value without causing unintended consequences in terms of exceedances at Spon End or at the South Western Section of the Inner Ring Road – with a maximum concentration of 39.6ug/m³ on Holyhead Road. Exclusion of the Spon End Scheme from the LAQAP package of measures would result in an additional exceedance of the EU Limit Value at Spon End at 43.3ug/m³ (essentially transferring the air quality problem from Holyhead Road to Spon End) and so the Council would not meet the requirements of its Ministerial Direction.

- 5.7 By providing an alternative route to the Holyhead Road from the west the road widening will provide environmental benefits to people living and/or using the town centre. It will relocate traffic and queuing away from the air quality hotspot and result in public health benefits from achieving NO2 compliance.
- 5.8 It is necessary to seek confirmation of compulsory purchase powers to secure the land to enable the Council to construct the Scheme within timeframes prescribed by the Direction. The Compulsory Purchase Order is sought to ensure this can be achieved.
- 5.9 The land is no more than that is required for the Scheme, its construction and future maintenance.
- 5.10 The Guidance at paragraph 106 sets out four factors which the Secretary of State can be expected to consider in assessing whether to confirm an order under section 226(1)(a) and section 226(3) of the 1990 Act. The four factors are set out and dealt with below:-
- 5.10.1 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;
 - 5.10.2 The extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area;
 - 5.10.3 Whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means; and
 - 5.10.4 The potential financial viability of the scheme for which the land is being acquired.
- 5.11 Each of these factors is considered in the sections which follow.

6. **THE PLANNING AND POLICY POSITION**

- 6.1 The National Planning Policy Framework (the “**NPPF**”) sets out the principles by which local planning authorities should treat planning applications and how they should plan investment in infrastructure to support sustainable development and economic growth. Section 4 paragraphs 29 to 41 of the NPPF encourages the use of transport solutions that reduce greenhouse gas emissions and traffic congestion, support sustainable development, and encourage a variety of transport modes. The works proposed to widen the highway at Spon End would alleviate congestion along Holyhead Road, reduce air pollution on Holyhead Road and ensure that compliance with the European Limit Value is achieved city-wide. The widened road will improve pedestrian links to the city centre from Spon End.
- 6.2 In relation to the conservation areas, under paragraph 201 of the NPPF, the identification of impacts on the conservation areas needs to take into account the relative significance of the element affected and its contribution to the significance of the conservation area as a whole. The Black Horse makes a small contribution to the overall significance of the Spon End Conservation Area. The building’s loss would not result in any substantial impact on the conservation area as a whole.
- 6.3 The Planning Practice Guidance (the “**PPG**”) provides further context to the NPPF and it is intended that they are read together. The PPG provides guidance in relation to how planning can take account of the impact of new development on air quality.
- 6.4 CCC’s Local Plan (2017) sets out the spatial vision, strategy and planning policies to 2031 against which development is to be considered. It states that the whole of Coventry is designated as an Air Quality Management Area and has been since 2009. A primary cause of the poor air quality in the Coventry urban area are emissions from road transport.
- 6.5 Policy DS3 Sustainable Development reflects the NPPF’s presumption in favour of sustainable development and delivering development that improves the economic, social and environmental conditions in the area.

- 6.6 Policy EM1 Planning for Climate Change Adaptation requires development to be designed to be resilient to, and adapt to the future impacts of, climate change.
- 6.7 Policy EM7 Air Quality states that new major development should promote a shift to the use of sustainable transport.
- 6.8 The Air Quality Supplementary Planning Document (the “SPD”) contains additional guidance for the consideration of air quality impacts and mitigation associated with development schemes. The overarching objective of the SPD is to achieve and maintain compliance with the National Air Quality Objectives and improving air quality further.
- 6.9 Paragraph 15 of the CPO Circular advises:-
- " 15. *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."*
- 6.10 Other than confirmation of the Order, the Council is satisfied that there are no foreseeable impediments to implementation and that funds will be available to secure the Scheme (see paragraph 9 below).
- 6.11 Permitted Development Rights are available for the implementation of the highways works comprising the Scheme under the Town and Country Planning (General Permitted Development) (England) Order 2015 Part 9 Class A, which enables:
- "The carrying out by a highway authority—*
- (a) on land within the boundaries of a road, of any works required for the maintenance or improvement of the road, where such works involve development by virtue of section 55(2)(b) of the Act; or*
- (b) on land outside but adjoining the boundary of an existing highway of works required for or incidental to the maintenance or improvement of the highway."*
- 6.12 The related orders and consents necessary for implementing the Scheme are as follows:-
- 6.12.1 Planning permission for the demolition of the former Black Horse public house, to enable the construction of the additional carriageway. In December 2021, a direction under Article 4 of the General Permitted Development Order 2015 was applied to the former Black Horse, requiring planning permission to be obtained for demolition. Following pre-application engagement with the local planning authority, an application for demolition was submitted and validated on 17 January 2022, with application reference FUL/2022/0070. The planning application is expected to be determined by 10 March 2022.
- 6.12.2 Overall, the harm arising from the demolition of the former Black Horse property is considered less than substantial harm to a locally listed non-designated heritage asset. and

is towards the lower end of the harm spectrum. The public benefits of the Scheme and the Wider Scheme outweigh the harm caused by its loss. It is therefore considered that the public benefit to be derived from the improved highway layout at Spon End, alongside the wider air quality improvements that it will support, outweigh the loss of this asset. The legal obligation placed on the Council by the 2020 Direction must also be considered as relevant to the planning balance. Overall, it is considered that the application for demolition is in accordance with Local Plan Policies DS3, EM1 and EM7, the Air Quality SPD, alongside section 16 for conserving the natural environment in the NPPF.

- 6.13 The Scheme accords with national and local planning policy objectives and there are therefore not considered to be any planning obstacles which would prevent implementation of the Scheme if the Order is confirmed.

7. CONTRIBUTION TO ECONOMIC, SOCIAL OR ENVIRONMENTAL WELLBEING OF THE AREA

Economic and Social Benefits

- 7.1 Air pollution particularly affects the most vulnerable in society, it is known to have more serious effects on vulnerable groups, for example the elderly, children and people already suffering from pre-existing health conditions such as respiratory and cardiovascular conditions. Studies have suggested that the most deprived areas of Britain bear a disproportionate share of poor air quality. Air pollution has social costs and risks the potential for economic growth. It also impacts upon people of working age which can have economic effects, for instance if they have to take days off work due to air pollution-related health problems. Poor air quality in the UK is estimated to have had a total cost of up to £2.7 billion, nationally, through its impact on productivity in 2012.

Environmental Benefits

- 7.2 Improving air quality can have direct and indirect impacts, which can deliver wider environmental benefits. NO₂ contributes to acidification and eutrophication of soil and watercourses, which impacts on animal and plant life and biodiversity. It also contributes to local ozone production which has public health impacts and damages plants. Reducing the use of petrol and diesel vehicles through innovative transport technologies and increasing active travel uptake, will not only improve air quality but will also positively impact on other policies. For example, some estimates suggest that physical inactivity is associated with higher mortality rate than smoking. This will also help reduce traffic congestion as more people walk, cycle or use public transport, and will improve the health of the public as people become more active, relieving pressure on the healthcare sector.

8. ALTERNATIVES CONSIDERED

- 8.1 The first Government Direction regarding NO₂ compliance was served on the Council in 2017. This Direction required the Council to implement a CAZ. Further investigation by the Council showed that a large CAZ type D would be required, which would charge all non-compliant vehicles using the zone on a daily basis, including HGVs, taxis and private hire vehicles, light vans, buses and cars. Such non-compliant vehicles would typically be older and generally diesel vehicles (pre-2015 diesel and pre-2007 petrol vehicles). This would have impacted on approximately 82,000 residents in the city, employees and shoppers, and would have had a disproportionate social and economic impact on less well-off citizens in this area who may not be able to afford to upgrade their vehicles to a modern compliant vehicle. Additionally, modelling indicated that even with a CAZ in place, some infrastructure works would be required to reduce polluting traffic in the eastern section of Holyhead Road approaching Junction 8 of the A4053 Ring Road. Consequently, the Council carried out extensive work to identify alternative packages of measures to the CAZ, that would have less detrimental impacts on the city and its citizens but would still achieve compliance in the 'shortest possible time'. The Council sought solutions that would leave a beneficial legacy for the city in terms of improved infrastructure and culture change.

- 8.2 Between 2017 and 2019, the Council reviewed an extensive list of alternative solutions, being:

- 8.2.1 Improved infrastructure to relieve congestion;

- 8.2.2 Improved infrastructure linked with monitoring technology to permit traffic to be balanced between alternative routes;
- 8.2.3 Improved infrastructure for active travel modes such as cycling;
- 8.2.4 Increased electric buses;
- 8.2.5 Promotion of electric taxis;
- 8.2.6 Improved electric charging infrastructure;
- 8.2.7 Restricting traffic in key locations;
- 8.2.8 Priority lanes for buses;
- 8.2.9 Priority lanes to encourage car sharing;
- 8.2.10 Promotion of car sharing schemes;
- 8.2.11 Instigation of workplace parking charges;
- 8.2.12 Promotion of increased use of public transport and improved public transport; and
- 8.2.13 Promotion of behavioural change for businesses and the general public.

8.3 In total, around 30 options were assessed prior to securing Cabinet approval, in February 2019, for a scheme that would, in the view of the Council, achieve compliance with NO₂ legal limits in the shortest possible time. The options that were rejected either failed to achieve compliance, or, as was particularly the case with the CAZ options, were judged to have wider social and economic disbenefits that outweighed any air quality benefits. As set out above, the Direction was issued in February 2020 by the Secretary of State and confirmed the measures to be implemented by the Council.

8.4 **Alternatives to acquisition of the former Black Horse Public House**

8.5 The Council has explored reasonable alternatives to the compulsory acquisition and demolition of the former Black Horse Public House, including (i) removal of the former Black Horse pub from the Scheme and (ii) partial demolition and re-configuration of the former Black Horse pub site.

Avoidance of former Black Horse pub from inclusion in the Scheme

8.6 The Council has considered options to avoid the inclusion of the former Black Horse pub from the Scheme, including options which included works to widen the other side of the carriageway, and an option to route new road either side of the former Black Horse. However, it has been concluded that these are not a viable options, as in each case, they would require a more substantial realignment of the highway and would cause direct impact and loss of a higher number of properties, including residential property. These alternatives would also have an adverse impact on the highway alignment as the highway requires an additional lane to accommodate the increased capacity and therefore needs to traverse a second arch of the railway bridge, to the north of the current highway alignment. The General Arrangement Drawings accompanying the Order (Appendix 2) show the pinch point and the proposed alignment to traverse the second arch of the railway bridge (see sheets 1 – 3).

Re-configuration of the former Black Horse pub site

8.7 At the request of the owner, the Council considered the possibility of acquiring and partially demolishing and reconfiguring the former Black Horse pub. This option would have involved the Council acquiring the site and demolishing part of the existing property necessary for delivering the

Scheme to move the frontage of the building back, before offering the site back to the original owner. However, it was determined that this was not an appropriate or viable option for the following reasons:

- 8.7.1 The Council considers it highly unlikely that permission would be granted for part demolition of the non-designated heritage asset. This is not a building which has easily severable parts. Demolition of only part of the building would necessitate significant works of shoring up and reconstruction.
- 8.7.2 The roof would require major or complete replacement and the configuration of the building would be substantially altered, including demolition of the kitchen as the new highway boundary runs through it. It is likely that the costs of delivering an options with partial demolition and configuration would be disproportionately higher than the costs of demolition and the resulting property would not be viable for continued use in its current HMO usage in any event.
- 8.7.3 The Council considers it highly unlikely that a future hypothetical scheme for the reconfiguration of the Black horse pub building would be successful since it would mean utilising an area that is presently utilised for off-road parking of vehicles associated with the residential use of the building. There is also no such scheme in development at the present time.
- 8.7.4 The reconfiguration would have required the Council to acquire the whole of the property in any event as demolition and reconfiguration works could not be undertaken without control of the entire building for safety reasons. The level of works and interference required with the remainder of the building could not reasonably be achieved by reliance on the acquisition of rights to carry out works to the remainder of the building. Acquisition of the freehold would have been required in any event.

9. FUNDING

- 9.1 Central government has agreed to provide £25.447m funding for this Scheme through the Air Quality Fund.
- 9.2 The West Midlands Combined Authority has agreed to provide £5.8m of capital funding for the Scheme from the Transforming Cities Fund.
- 9.3 The expected compensation liability following the making and confirmation of the order is anticipated to be in the region of £3.35million.
- 9.4 The total expected cost of the scheme is £7.61million, which will include land acquisition, design and construction. The cost of the scheme is therefore met by the grant funding from Central Government, which has already been received by the Council.
- 9.5 It is expected that work to deliver the Scheme will commence in February 2022 in relation to contractor mobilisation, and delivery of elements within the existing public highway and where land has been voluntarily acquired. Subject to confirmation of the Order, the Scheme is expected to be completed by August 2023.

10. NEGOTIATIONS WITH LANDOWNERS

- 10.1 The Council has sought, and continues to seek, acquisition of the Order Land, or rights over the Order Land, by negotiation and agreement wherever possible, and the making of the CPO does not prejudice the rights of the respective owners to settle such negotiations by agreement.
- 10.2 Paragraph 2 of the Guidance provide advice on negotiations. In particular, it states:-

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

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

Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. However, if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost. Therefore, depending on when the land is required, it may often be sensible, given the amount of time required to complete the compulsory purchase process, for the acquiring authority to:-

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

This will also help to make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations."

- 10.3 Whilst negotiations have taken place prior to the making of the order, to date it has not been possible to reach agreement with all those affected by the Scheme. It is therefore appropriate, as the Guidance advises, to progress the Order as well as advancing negotiations as far as possible. Negotiations were begun in 2020 by the Council and will continue after the making of the Order.
- 10.4 However, to date it has not been possible to reach appropriate agreement in all cases and it is recognised that the Scheme can only progress with the support of a compulsory purchase order.
- 10.5 The acquisition programme includes proposals to provide assistance to the occupiers of the former Black Horse public house to find suitable alternative accommodation. Occupiers have been contacted and offered support. The efforts to find appropriate relocation solutions will continue throughout the acquisition programme. Council is engaging with university accommodation services and letting agencies in order to assist tenants to find suitable alternative accommodation.
- 10.6 No other residential properties are affected. The remaining plots proposed to be acquired comprise hardstanding and areas of footway and will not require the affected owners to relocate.
- 10.7 The Council considers that the use of its CPO powers to acquire all outstanding interests in the Order Land to be required as it has not been possible to achieve this by agreement and it is highly unlikely that it would be able to do so within an acceptable timescale without the Order. The Scheme cannot proceed unless these interests are acquired. The Council is satisfied that the acquisition of these interests will facilitate the delivery of the Scheme which will contribute to economic, social and environmental improvements to the area and will assist in bringing existing exceedances of NO₂ limits back into compliance with relevant legislation.
- 10.8 Details are set out below in relation to each plot on the current status of negotiations. The Council has been able to reach agreement on heads of terms with some of the owners for acquisition by agreement. These acquisitions by agreement are currently being progressed and details are set out below. In relation to the remaining landowners, the Council has made a formal offer to each owner for the purchase of the land and negotiations are ongoing, as summarised in the table below:

Plot number	Landowner	Current position
1	Revie Property Limited (National Tyre Service Limited)	Heads of terms have been agreed between the Council and the Owner for the purchase of the plot and the parties are negotiating the documentation for the transfer of the land.

2	Louis Lectician Amalendran	An offer letter for the purchase of the Plot 2 was sent by the Council on 25 th January 2022 and negotiations are ongoing.
3	Nissan Motor (GB) Limited	An offer letter for the purchase of the Plot 3 was sent by the Council on 1 st December 2021 and negotiations are ongoing.
4	Coventry City Council	The Council has purchased possessory title to plot 4 alongside the acquisition of additional land. The Council's diligent inquiries, including the posting of site notices, have not revealed any other information about the ownership of this plot. The plot is included in the Order to secure full title absolute for the delivery of the scheme.
5 and 6	Plot numbers not in use	Plot numbers not in use
7	Coventry City Council (Motor Fuel Limited)	An offer letter for the purchase of the Plot 8 was sent by the Council on 14 th April 2021 and heads of terms have been agreed. The parties are negotiating the documentation for the surrender of Motor Fuel Limited's leasehold interest in Plot 7, and matters relating to compensation. Completion of the surrender is expected to take place shortly.
8	Butts Developments Limited	An offer letter for the purchase of the Plot 9 was sent by the Council on 10 th September 2021 and negotiations are ongoing.

- 10.9 The Council considers that the use of its CPO powers to acquire all outstanding interests in the Order Land to be required as it has not been possible to achieve this by agreement and it is highly unlikely that it would be able to do so within an acceptable timescale without the CPO. The Scheme cannot proceed unless these interests are acquired. The Council is satisfied that the acquisition of these interests will facilitate the delivery of the Scheme which will lead to the redevelopment and will contribute to economic, social and environmental improvements to the area.

11. HUMAN RIGHTS

- 11.1 It is incumbent upon the Council to consider the impact of the Humans Rights Act 1998 when making decisions. The Council is conscious of the need to strike a balance between the rights of the individual and the interest of the public.
- 11.2 Section 6 of the Human Rights Act 1998 prohibits a public authority from acting in a way which is incompatible with the rights and fundamental freedoms set out in specified provisions of the European Convention on Human Rights ("**Convention Rights**").
- 11.3 Convention Rights likely to be engaged in the process of considering, making, confirming and implementing a compulsory purchase order include those under Article 6 (right to a fair and public hearing to determine a person's civil rights), Article 1 of the First Protocol (right to peaceful enjoyment of possessions) and Article 8 (right to respect for private and family life including a person's home). In addition, in effect, Article 14 prohibits discrimination, on any grounds, in the way public authorities secure enjoyment of the rights protected by the European Convention on Human Rights.
- 11.4 In relation to the rights protected under Article 1 of the First Protocol (right to peaceful enjoyment of possessions) the European Court has recognised that "*regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole*". Both public and private interests are to be taken into account in the exercise of the Council's powers and duties. Any interference with a Convention Right must be necessary and proportionate.

Compulsory purchase and overriding private rights must be justified by sufficiently compelling reasons in the public interest and must be a proportionate means of achieving the objectives of the Order. Similarly, any interference with rights under Article 8 (right to home life) must be "necessary in a democratic society" and proportionate. The requirements under the Convention are accurately summarised in paragraphs 12 and 13 of the Guidance:-

" 12. *A compulsory purchase order should only be made where there is a compelling case in the public interest.*

An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Particular consideration should be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention.

13. *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 land 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 of 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."

11.5 In making this Order, the Council has carefully considered the balance to be struck between individual rights and the wider public interest. A compelling case in the public interest exists for the making and confirmation of the Order. Interference with Convention Rights, to the extent that there is any, is considered to be justified in order to secure the benefits which the Scheme will bring including the economic, social and environmental well-being improvements referred to above. Appropriate compensation will be available to those entitled to claim it under the relevant statutory provisions.

11.6 In relation to the requirements of Article 6 (right to a fair and public hearing), these are satisfied by the statutory procedures which include rights to object and to be heard at any public inquiry and by the right to statutory challenge under the Acquisition of Land Act 1981.

11.7 The Council considers that the interference with convention rights is justifiable in the public interest for the reasons given elsewhere in this report.

12. **EQUALITY ACT 2010**

12.1 In discharging all its functions, the Council has a statutory duty under section 149 of the Equality Act 2010 to have due regard to the need to:-

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

12.1.2 advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

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

- 12.2 Section 149 gives greater detail of what each of the above matters involves which the Council has taken into account. The "relevant protected characteristics" are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.
- 12.3 An Equality Impact Assessment has been undertaken by the Council in relation to the LAQAP. It concludes that there would be positive effects on groups with protected characteristics as follows: age, disability, pregnancy and maternity and sex. These positive effects arise as a result of the delivery of air quality improvements in Coventry and as a result of improved pedestrian crossing facilities and access routes to the town centre.
- 12.4 A further full Equality Analysis ("**EqA**") has been undertaken to assess the impact on protected groups of the making of the Order and implementation of the Scheme, in line with the Equality Act 2010 and the Public Sector Equality Duty. The EqA includes consideration of the impact upon protected groups whose lives may be affected by the acquisition of land and rights, by the construction of the Scheme and/or by the completed Scheme.
- 12.5 The EqA identifies a positive impact on a number of equality groups as a result of the scheme. This is particularly on those who currently own or occupy land within and around the Scheme and those who live within or around the affected area (now or in the future).
- 12.6 The potential impact on each of the protected groups is examined in detail in the EqA.

12.7 **Conclusion regarding Human Rights Act and the Equality Act**

Having regard to the wider public interest and the air quality and transportation benefits that are achieved, the Council considers that the interference with private rights to enable the proper functioning of the Scheme is justified and that an appropriate balance has been struck between those rights and the wider public interest. It is considered that once the Scheme has been completed all persons (including those with a relevant protected characteristic within the meaning of the Equality Act 2010) will benefit.

12.8 **The Traffic Regulation Order**

A Traffic Regulation Order will be required under section 1 of the Road Traffic Regulations Act 1984 to address changes to proposed on street parking at Spon End. The Traffic Regulation Order was published on 18 November 2021.

13. **INSPECTION OF DOCUMENTS**

All documents relating to the CPO are available to view on the Council's website: <https://www.coventry.gov.uk/sponendCPO>. A hard copy of the CPO and the Map can be requested by contacting Gerry Raleigh, whose contact details are set out at paragraph 14.1 below.

All documents relating to the Order can also be inspected during office hours (9:00-1700 Monday to Friday) at the Council House Reception Desk of the Council at Council House, Coventry, CV1 5RR.

CONCLUSION

- 13.1 Overall, it is considered that there is a compelling case for the public interest for compulsory acquisition of the Order Land. Furthermore, the required funds are available to meet the costs of land acquisition and any compensation payable.

14. **ENQUIRIES AND OFFICIAL CONTACT DETAILS**

14.1 **General enquiries**

Gerry Raleigh, Programme Manager, Coventry City Council. Floor 10, One Friargate, Coventry, CV1 2GN (Gerry.Raleigh@coventry.gov.uk)

14.2 **Land/Compensation Enquiries**

Simon Cooper, Surveyor, Coventry City Council, Council House, Coventry, CV1 5RR
(Simon.Cooper@coventry.gov.uk)

14.3 **Planning Enquiries**

Nigel Smith, Planning Officer, Coventry City Council, Council House, Coventry, CV1 5RR
(Nigel.Smith@coventry.gov.uk)

14.4 **Legal Enquiries**

Claire Kahrman, Property Lawyer, Coventry City Council, Council House, Coventry, CV1 5RR(Claire.Kahrman@coventry.gov.uk)

Lucy Thomas of Pinsent Masons LLP, 55 Colmore Row, Birmingham B3 2FG
(Lucy.Thomas@pinsentmasons.com)

- 14.5 Provision is made by statute with regard to compensation for the compulsory purchase of land and the depreciation value of properties. Further helpful information is given in the series of booklets published by the Department for Communities and Local Government entitled "Compulsory Purchase and Compensation". Copies of these booklets are obtainable, free of charge, from: <https://www.gov.uk/government/collections/compulsory-purchase-system-guidance>.

15. **LIST OF DOCUMENTS IN CASE OF PUBLIC INQUIRY**

- 15.1 This Statement is not intended to be a statement required under Rule 7 of the Compulsory Purchase by Non-Ministerial Acquiring Authorities (Inquiries Procedure) Rules 1990.

- 15.2 The following is a list of documents that the Council intends to refer to should there be a public inquiry (although this list is not exhaustive and in the event of a public inquiry, the Council may put forward additional documents):

15.2.1 CPO and CPO map

15.2.2 Delegated Authority Report dated 2 February 2022

15.2.3 Cabinet report dated 12 February 2019 and minutes

15.2.4 Cabinet report dated 21 July 2020 and minutes

15.2.5 Coventry City Council LAQAP

15.2.6 The Direction

15.2.7 [UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations](#)

15.2.8 National Planning Policy Framework

15.2.9 The Government Guidance on Compulsory Purchase Process dated October 2015

15.2.10 Equality Impact Assessment

Dated 4 February 2022

Pinsent Masons LLP

Solicitors to Coventry City Council