

**Title:** Coventry City Council Air Quality Action Plan: Spon End Land Acquisition and Compulsory Purchase Order

**List of Appendices included:**

- Appendix 1: Draft CPO
- Appendix 2: Plan showing land to be acquired
- Appendix 3: Plan showing proposed Spon End Scheme
- Appendix 4: Equalities Impact Assessment
- Appendix 5: Draft Statement of Reasons

**Other useful documents:**

Environment Act 1995 (Coventry City Council) Air Quality Direction 2020.

Cabinet Report – Coventry Local Air Quality Action Plan (20 July 2020)

Cabinet Report – Coventry Local Air Quality Action Plan (12 February 2019)  
<https://edemocracy.coventry.gov.uk/documents/s42689/Coventry%20Air%20Quality%20Action%20Plan.pdf>

Cabinet Report – Coventry Local Air Quality Action Plan (17 July 2018)  
<https://edemocracy.coventry.gov.uk/documents/s38939/Coventry%20Air%20Quality%20Action%20Plan.pdf>

**Summary**

The Spon End Scheme will contribute to the achievement of the air quality objectives set out in the Coventry City Council Local Air Quality Action Plan for roadside NO<sub>2</sub> levels across the city. The Secretary of State has issued a Direction which requires the City Council to implement the measures set out in the Local Air Quality Action Plan.

In July 2020, Cabinet approved in principle the making of a CPO to facilitate delivery of the works set out in 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 Governance, to finalise the Order Map (within the red line boundary of the Appendix 2 Plan), the Statement of Reasons and the CPO Order and advertise the order and submit it to the Secretary of State and to take all necessary steps to secure the making, confirmation and implementation of the CPO.

In the July 2020 report to Cabinet, paragraph 2.16 set out that if any CPO was to be made, the Council would require further updating and justification:

- that there was a compelling case in the public interest;
- that there were no planning, funding or other legal impediments to the scheme being delivered,
- that all reasonable attempts to acquire all interests by agreement have not been successful;

- for any interference with the human rights of those with an interest in the land affected; and
- that any assessment of the impacts on residents, visitors and employees be measured and evaluated, with special focus on the likely effect of the proposals on those sharing protected characteristic (race, pregnancy, age, disability, gender reassignment, marriage/civil partnerships, religion/belief, sex, sexual orientation (as defined by the Equality Act 2010)) be made, in order for the Council to fully understand those impacts, and to consider measures to mitigate impact, make reasonable adjustment, and foster good relations between those sharing protected characteristics, and those who do not.

Officers now recommend that the CPO should be made in the form attached to this report, and consider that there is a compelling case in the public interest for the exercise of the powers.

## 1. Context/background

- 1.1 In July 2017 the Government published the "United Kingdom Plan for tackling roadside nitrogen dioxide (NO<sub>2</sub>) 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 NO<sub>2</sub> limit values within the shortest possible timescales". Coventry was named as one of 22 towns and cities within the UK where NO<sub>2</sub> levels are forecast to exceed legal limits by 2020, and was required to produce a local action plan by March 2018.
- 1.2 The Government established a Joint Air Quality Unit ("JAQU") (a joint venture between Defra and the DfT) to deliver the Government's NO<sub>2</sub> reduction strategies, and to work with the relevant local authorities to develop Local Air Quality Action Plans ("LAQAP") to achieve the legal limits for NO<sub>2</sub> in the shortest possible time.
- 1.3 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 NO<sub>2</sub> levels. On 12th February 2020, the Parliamentary Secretary of State for the Environment issued the Environment Act 1995 (Coventry City Council) Air Quality Direction 2020. 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.
- 1.4 The Council has now prepared a Full Business Case for the LAQAP which was approved by Cabinet in December 2020 and submitted to the Secretary of State on 4 March 2021.
- 1.5 The key benefits resulting from the LAQAP are:
  - 1.5.1 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
  - 1.5.2 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.

- 1.5.3 Improvements to infrastructure for walking and cycling in the area which will promote active travel, bringing health and wellbeing benefits.
- 1.6 There are three main elements of the package of measures set out in the LAQAP.
  - 1.6.1 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.
  - 1.6.2 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.
  - 1.6.3 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.
- 1.7 The proposed CPO is connected 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 restrictions if necessary to allow NO<sub>2</sub> levels to be brought below legal limits on this route. 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.
2. **Legal Power**
  - 2.1 The making of a CPO follows the statutory process set down in the Acquisition of Land Act 1981 (as amended).
  - 2.2 Local Authorities have powers under section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) to acquire compulsorily land in their area to facilitate the carrying out of development, re-development or improvement on or in relation to the land, provided that the authority think that the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objectives: the promotion or improvement of the economic well-being of their area; the promotion or improvement of the environmental well-being of their area; the promotion or improvement of the social well-being of their area.
  - 2.3 The enabling power in Section 226(1) (a) of the Town and Country Planning Act 1990 is being used as in resolving to make a CPO, the City Council as Acquiring Authority believes the scheme will improve the economic, social and environmental well-being of the area, specifically by securing the delivery of the Council's Local Air Quality Action Plan objectives and reducing roadside NO<sub>2</sub>. This will have widespread beneficial impacts for Coventry residents.

- 2.4 Accordingly, the Acquiring Authority believes that there is a compelling case in the public interest to make a compulsory purchase order which outweighs the loss of the third party landholdings and does not breach the Human Rights Act and will comply with the Public Sector Equality Duty.
- 2.5 In considering whether to make a CPO, the rights of the property owners affected have been considered and the impact on third party land required minimised as far as possible.
- 2.6 Compensation will be payable in accordance with the Compulsory Purchase Compensation Code.

### 3. **Government Guidance**

- 3.1 In promoting a compulsory purchase order, acquiring authorities should have regard to government guidance and in particular “*Guidance on Compulsory Purchase process and the Crichton Down Rules*” published by MHCLG in February 2018 (“the Guidance”). Section 1 of Tier 2 of the Guidance considers CPOs made under s226 of the Town and Country Planning Act 1990 and paragraph 106 of this Section identifies that the factors that the Secretary of State will take into account in deciding whether to confirm a CPO made under this section can be expected to include:
- *Whether the purpose for which the land is being acquired fits in with the adopted Local Plan for the area or, where no such up to date Local Plan exists, with the draft Local Plan and the National Planning Policy Framework.*
  - *The extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area.*
  - *Whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means. This may include considering the appropriateness or any alternative proposals put forward by the owners of the land, or any other persons, for its reuse. It may also involve examining the suitability of any alternative locations for the purpose for which the land is being acquired.*
  - *The potential financial viability of the scheme for which the land is being acquired. A general indication of funding intentions, and of any commitment from third parties, will usually suffice to reassure the Secretary of State that there is a reasonable prospect that the scheme will proceed. The greater the uncertainty about the financial viability of the scheme, however, the more compelling the other grounds for undertaking the compulsory purchase will need to be. The timing of any available funding may also be important. For example, a strict time limit on the availability of the necessary funding may be an argument put forward by the acquiring authority to justify proceeding with the order before finalising the details of the replacement scheme and / or the statutory planning position.*
- 3.2 The Statement of Reasons, as attached at Appendix 5, sets out why and how the Council believes these factors have been addressed.

### 4. **Delivery and funding**

- 4.1 As set out in the fourth bullet point of paragraph 3.1 above, in considering whether or not to confirm the CPO, the Secretary of State can be expected to consider (amongst other things) the potential financial viability of the scheme being considered and whether there is a reasonable prospect of delivery.

- 4.2 The Council has secured specialist valuation advice in relation to affected interests. The expected compensation liability following the making and confirmation of the order is anticipated to be in the region of £3.35m. The expected cost of the Spon End Scheme is £7.61m.
- 4.3 Central Government has awarded the Council £25.447 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.
5. **Negotiation for acquisition of interests by agreement**
- 5.1 The Council has contacted all owners affected by the Scheme and has made offers to purchase the land by negotiation. Discussions are ongoing with several owners. In other cases, terms have been agreed for acquisition, and the process is ongoing. The Council will continue to seek to acquire interests by negotiation.
- 5.2 However, in view of the urgent need to deliver the scheme to achieve the air quality improvements mandated in the Direction and set out in the Local Air Quality Action Plan, Officers consider that a CPO should now be made to ensure that all land interests required can be delivered in a timely manner.
6. **Human Rights**
- 6.1 The making of a CPO has the potential to interfere with protected rights under the Human Rights Act. The proposed Scheme primarily seeks the acquisition of small areas of the frontages of properties, with the exception of the former Black Horse public house, which is currently in occupation as a HMO.
- 6.2 The Council is engaging with university accommodation services in relation to student accommodating and letting agencies in the area in order to assist affected residential occupiers of the former Black Horse to be supported to relocate to suitable alternative accommodation.
- 6.3 Officers consider that the compelling case for delivery of the air quality benefits that the Scheme is expected to bring justifies the interference with human rights. Compensation will be payable for all affected owners, and occupiers with qualifying interests will be entitled to a home loss payment under the Compensation Code, in addition to the voluntary support offered by the Council and detailed in paragraph 6.2 above.
7. **Equalities / EIA**
- 7.1 Section 149 of the Equality Act 2010 requires the Council in the exercise of its functions to have due regard to the need to:
- eliminate discrimination, harassment, victimisation and other form of conduct prohibited under the act; and,
  - advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic (age, disability, gender re-assignment, pregnancy and maternity, race, religion and belief, sex, and sexual orientation) and persons who do not share it.

- 7.2 Having regard to the need to advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share it involves having due regard in particular, to the need to:
- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - take steps to meet the needs of the persons who share that characteristic that are different from the needs of persons who do not share it; and,
  - encourage persons of the relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

7.3 An EqlA has been prepared and is attached at Appendix 4.

## 8. **Next steps**

8.1 It is anticipated that the CPO would be formally made in early February 2022. If objections are made to the CPO, and these are not resolved by agreement, a public inquiry will be held and is anticipated this would be held later in 2022. During this time, the Council will continue to negotiate with all relevant land interests in the scheme to seek to acquire by negotiation.

## 9. **Implications for (or impact on) climate change and the environment**

9.1 The Scheme is be in accordance with the Council's Local Air Quality Action Plan and the Secretary of State's Direction. The improvement of air quality within the City of Coventry aligns with planning policies for sustainable development.

9.2 The LAQAP includes measures to promote active travel (Coundon cycleway, new cycle/pedestrian facilities along the B4101 and improved links for pedestrians and cyclists under the ring road at junction 7). Coupled with travel planning initiatives (working with schools and local businesses), this will help drive mode shift away from cars with consequent carbon reductions.

9.3 A planning application for permission for the demolition of the former Black Horse public house has been submitted to the Council (as local planning authority) (application reference FUL/2022/0070).

9.4 All other works fall within permitted development as highways works.