

NORTH SOMERSET COUNCIL DECISION

DECISION OF: COUNCILLOR STEVE BRIDGER. LEADER OF THE COUNCIL AND EXECUTIVE MEMBER FOR MAJOR INFRASTRUCTURE PROJECTS



IN CONSULTATION WITH: ASSISTANT DIRECTOR PLACE MAKING & GROWTH. IN ACCORDANCE WITH DELEGATED AUTHORITY 22/23 DP 53

DECISION NO: 22/23 DP 241

SUBJECT: ACCEPTANCE OF NORTH SOMERSET COUNCIL (BANWELL BYPASS) SIDE ROAD ORDER 2022 AND AMENDMENTS TO NORTH SOMERSET COUNCIL (BANWELL BYPASS) COMPULSORY PURCHASE ORDER 2022 AND SUBMISSION OF SRO, CPO AND SECTION 19 CERTIFICATE DOCUMENTATION TO THE SECRETARY OF STATE

KEY DECISION: YES

REASON: This decision is considered to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the Local Authority.

Note: This is an urgent decision which has not been listed on the Forward Plan. The access to information procedure rules have been followed.

BACKGROUND:

The Council submitted a report to Full Council in July 2022 (decision no: COU37) seeking approval to make the compulsory purchase order (CPO) and all other related orders (Side Road Order and Traffic Regulation Orders) for the Banwell Bypass and Highways Improvement scheme.

Within this report, the project team sought delegated authority from the Executive Member, in consultation with the Director of Place on the following points:

(i) delegate to the Executive Member for Major Infrastructure Projects the authority to make and submit the CPO, SRO and section 19 certificate to the relevant Secretary of State for confirmation and to take all necessary steps to secure the making, confirmation and implementation of the CPO and SRO, including the preparation and presentation of the Council's case at any public inquiry;

(k) delegate to the Executive Member for Major Infrastructure Projects, in consultation with the Director of Place, the authority to make any necessary amendments to the Orders;

The CPO land covers the extent of land needed for the bypass and all associated mitigation including flood compensation areas, environmental mitigation, replacement land for Banwell Football club (which is impacted by the scheme) and improvements to the wider road network including improvements to active travel measures.

In conjunction with the compulsory purchase order, the team will be serving a Side Road Order under sections 14 and 125 of the Highway Act 1980. This is required to authorise the Council (as highways authority) to stop up, divert, improve, raise, lower or otherwise alter a highway that crosses or enters the route of the road (“the road” in this context being the Banwell Bypass and/or the Southern Link).

Whilst the Side Road Order will be served at this stage, no physical works will be undertaken until the scheme is into the construction phase. The SRO changes are to be implemented as a result to the bypass severing or requiring alteration to existing public rights of way or private means of access.

A further supplementary compulsory purchase order may be required at a later stage of the project to address any further land or rights required for the scheme as a result of detailed design or any planning conditions.

DECISION:

1. To accept the amendments to the compulsory purchase order red line boundary (Appendix A & B)
2. To authorise the submission of the CPO, SRO and Section 19 certificate to the Secretary of State
3. To approve the Side Road Order plans (Appendix C)

REASONS:

As highway authority, the Highways Act (1980) authorises the Council to compulsorily acquire land that is required for the construction or improvement of a highway.

The scheme is constrained by a tight delivery timescale which is detailed in the Grant Determination Agreement signed by both North Somerset Council and the funding provider, Homes England. This is essential for project delivery as further funding availability (to proceed with construction) is dependent on the acquisition of all required land and rights.

As a result of the new highway, the scheme must serve a Side Road Order to alter or stop-up side roads and accesses, create new highway and new private means of access. The SRO will also authorise the construction of a new highway for purposes concerned with such alteration, or for any other purpose connected with the road or its construction. A list of the alterations to the public rights of way and private means of access’ can be found in section 12.10 of the draft Statement of Reasons appended to this report.

The CPO and SRO are being served in parallel with the planning submission so that the early stages of the process can run in tandem, it is anticipated that the planning application will be determined late 2022 ahead of a CPO public inquiry date in early 2023. Serving the orders in October allowed for comments to be received through the statutory planning consultation and minor amendments could therefore be accommodated ahead of serving.

A section 19 certificate is no longer required as the scheme does not result in the loss of public open space or special category land. Details of special category land are detailed under section 11 of the draft Statement of Reasons.

OPTIONS CONSIDERED:

As mentioned above, the land assembly for the scheme is complex and highly unlikely to proceed without the use of compulsory purchase powers. Whilst negotiations are favoured, these can be timely and result in delays, the CPO acts as a longstop date to ensure all agreements are secured in advance.

Without use of compulsory purchase powers and subsequent SRO, the scheme would be unable to proceed.

FINANCIAL IMPLICATIONS:

There are no direct costs as a result of this decision, however, this decision will result in the serving of the CPO and progression of land negotiations.

Costs

As set out in the Council decision (COU37), high level property cost estimates have been prepared by Fisher German, land agent for the scheme. These estimates are subject to further analysis and updates as the design of the scheme and construction working requirements are finalised.

The costs associated with the CPO will be for professional fees in preparing documentation and evidence for the public enquiry. This was accommodated within the scope of works for both the land and legal consultants for the scheme and any additional support from the design team (Arup) will be addressed through a compensation event.

Funding

The scheme funding is divided into two tranches:

(a) Stage 1 (preliminary): approx. £17,300,000. This includes the costs of the design work, land acquisition and securing the Orders.

(b) Stage 2 (construction): approx. £48,000,000. This relates to the construction costs for delivering the Scheme.

The Stage 1 funding has already been drawn down and is available, this funding is sufficient to cover all costs associated with land assembly and securing the Orders.

LEGAL POWERS AND IMPLICATIONS

Full details of the legal powers and implications are set out in section 6 of the July Council report (COU37).

The Council's powers of compulsory purchase to acquire land and interests in land for the Scheme are contained in the Highways Act 1980.

It is a condition of the exercise of the relevant compulsory purchase powers that the land in question is "required" for a particular purpose. The land to be acquired by the Council is required for the following purposes under the relevant sections of the Highways Act 1980:

(a) Section 239: for the construction and improvement of a highway which is to be a highway maintainable at the public expense.

(b) Section 240: for the improvement of a highway and to acquire land necessary for implementing the SRO.

(c) Section 246: for the mitigation of any adverse effect which the existence or use of a highway constructed or improved has or will have on the surrounding of the highway.

The SRO will be made under sections 14 and 125 of the Highways Act 1980. Section 125 of the Highways Act 1980 also allows the SRO to be used to stop up or create new private means of access to premises for the purposes of constructing the Scheme. Where the SRO permits stopping up of a private means of access, the SRO will only be authorised if the Secretary of State is satisfied that no access to the premises is reasonably required, or that another reasonably convenient means of access to the premises is available or will be provided.

It is a requirement that provision be made in the SRO for the preservation of any rights of statutory undertakers and telecommunications code operators in respect of their apparatus affected by the SRO, subject to section 21 of the Highways Act 1980. Section 21 applies certain provisions of the Town and Country Planning Act 1990 (subject to modifications) which allow the extinguishment of these rights where a highway is stopped up or diverted under an SRO.

Owners or occupiers to which a supply was provided by that apparatus may be entitled to compensation for costs incurred due to the removal of the apparatus and the need to install a new connection with other apparatus.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

There are no climate change or environmental implications which stem directly from the authority to use compulsory purchase powers or voluntary acquisition to assemble the land required for the Scheme.

CONSULTATION

The scheme has undertaken two non-statutory consultations with the public on the alignment of the bypass and the detail of the scheme. Further consultation has been undertaken with statutory consultees (such as environmental groups) and other key stakeholders including Parish Councils, public working groups and non-statutory groups with an interest in the scheme.

Details of engagement can be found in section 4 of the Full Council decision (COU37).

RISK MANAGEMENT

The key risk is that in the event of the CPO or SRO not being served, it is unlikely that the scheme will progress as it is critical in assembly of all the required land and rights.

Other risks include:

- Design changes being made (due to planning requirements) after the CPO is published resulting in additional land being required.
- Cost risk to progressing the CPO in advance of securing planning permission

Further detail on how these risks are to be mitigated can be found under section 8 of the Full Council report.

EQUALITY IMPLICATIONS

Have you undertaken an Equality Impact Assessment? Yes

An Equality Impact Assessment has been undertaken for the Scheme and a further EQIA has been undertaken specifically for the submission of the CPO and SRO.

Potential impacts to the protected groups are centred around the CPO/SRO process and ensuring that affected parties are able to fully participate in that process. No high impacts have been identified. The Project has little potential to impact negatively on Protected Groups. The Council will respond sensitively in the event that any specific measures relating to protected characteristics are identified as being required.

A copy of the EQIA has been appended to this decision (E).

CORPORATE IMPLICATIONS

These are detailed in section 10 of the Full Council report, there are no further corporate implications as a result of the amendments appended to this report.

APPENDICES

- A) Table of amendments to the CPO red line boundary
- B) CPO Plans
- C) SRO Plans
- D) Draft Statement of Reasons
- E) EQIA

The appendices have been reviewed by the decision makers. Due to accessibility issues we are unable to make appendices B & C available on line but these are available on request. Please contact katie.park@n-somerset.gov.uk

BACKGROUND PAPERS

- EXE13 – Executive Report April 2021
- COU37 – Full Council Report July 2022

SIGNATORIES:

DECISION MAKER(S):




Signed:
Major Infrastructure Projects

Leader of the Council and Executive Member for

Date: 6 October 2022

IN CONSULTATION WITH:

Signed:  Assistant Director Placemaking and Growth

Date: 6 October 2022