

## **NORTH SOMERSET COUNCIL DECISION**



**DECISION OF:** COUNCILLOR STEVE BRIDGER. THE EXECUTIVE MEMBER FOR ASSETS AND CAPITAL DELIVERY

**WITH ADVICE FROM:** ASSISTANT DIRECTOR PLACEMAKING AND GROWTH. IN ACCORDANCE WITH DELEGATED AUTHORITY 22/23 DP 53

**DECISION NO:** 22/23 DP 465

**SUBJECT:** ACCEPTANCE OF AMENDMENTS TO NORTH SOMERSET COUNCIL (BANWELL BYPASS AND SOUTHERN LINK) COMPULSORY PURCHASE ORDER (NO.2) 2023

**KEY DECISION:** NO

### **REASON:**

**The decision does not incur expenditure of more than £500,000. This decision is considered to not be significant in terms of its effects on communities living or working in the area as only one ward is affected in the area of the Local Authority.**

### **BACKGROUND:**

The Council submitted a report to Full Council in February 2023 (decision no: COU112) seeking approval to make a supplemental compulsory purchase order (CPO) 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 point:

h) delegate to the Executive Member for Major Infrastructure, in consultation with the Director of Place, the authority to make any necessary amendments to the Supplemental Compulsory Purchase Order (CPO);

Recent discussions with National Grid have identified a potential health issue due to the alignment of the shared use path between the Banwell Bypass and Sandford where it crosses National Grid apparatus requiring a minor alteration to the alignment of the path and as a result to the CPO red line.

### **DECISION:**

To accept the amendments to the compulsory purchase order red line boundary (Appendix A)

## **REASONS:**

The Grant Determination Agreement signed by North Somerset Council and the funding provider; Homes England, requires the land assembly to be complete before stage 2 construction funding can be drawn down. 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. This ensures that the acquisition of any rights or land that cannot be secured by agreement can fall back on the CPO process.

National Grid have recently raised a potential issue with the alignment of the Banwell Bypass's proposed shared use path to Sandford in relation to the Hinkley Point C Connection Project works, which could cause a risk to human health. The issue is the shallow depth of National Grid's apparatus at the proposed crossing point with the shared use path. Discussions have been ongoing with National Grid to see if an engineering solution could be found within the current CPO red line boundary, but this has not been possible. As a result, the red line boundary is required to be changed to accommodate a satisfactory solution. The plan of the proposed change is attached in appendix A.

The supplementary CPO will be served post the determination period for the Planning Application, but a Non-Material Amendment or new Planning application may be required to accommodate this change. This can be progressed before the CPO inquiry.

## **OPTIONS CONSIDERED:**

Whilst negotiations are favoured, these can be time-consuming and result in delays, the CPO acts as a fallback position with more certain timescales and encourages landowners to reach agreement in advance. This design change removes the human health risk identified by National Grid.

To explore further engineering solutions to resolve the health risk identified within the current CPO redline this could cause programme delay, increased costs and could still result in an unsatisfactory solution.

## **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. Those costs are already reported in decision COU37).

### **Costs**

As set out in the Council decision (COU112), high level property cost estimates have been prepared by Fisher German, land agent for the scheme. The additional permanent land take required as a result of this amendment will equate to a total of £26,000.

### **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.

## **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 Council has undertaken a wide range of consultation with the public, statutory environmental bodies and other key stakeholders in relation to the Order.

Summaries of the main consultation undertaken for the Scheme include; non-statutory consultations between July - August 2021 and March – April 2022, engagement with Environmental Consultees and consultation with Internal North Somerset Council departments. For further details of the consultation undertaken to date, this is detailed in decision COU37.

Since the submission of the Planning Application there has been two further statutory consultations as a result of planning submission, one during summer 2022 and a further consultation on the amended proposals in the planning application from 19 December 2022 to 28 January 2023.

## **RISK MANAGEMENT**

There is a risk to the Scheme if the changes to the supplemental CPO requested in this report are not approved, in particular because of the time and cost involved in promoting a further CPO if agreement could not be reached with the affected landowner.

National Grid could ask for further changes to the proposed design solution after the CPO is published causing programme delay.

## **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 can 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 (Appendix B).

## **CORPORATE IMPLICATIONS**

These are detailed in section 10 of the Full Council report (COU37) there are no further corporate implications as a result of the amendments appended to this report.

## **APPENDICES**

Appendix A: Supplemental CPO plan

Appendix B: EQIA

## **BACKGROUND PAPERS**


EXE13 – Executive Report April 2021

COU37 – Full Council Report July 2022

COU112 – Full Council Report February 2023


SIGNATORIES:

DECISION MAKER(S):

Signed:  Executive Member for Assets and Capital Delivery

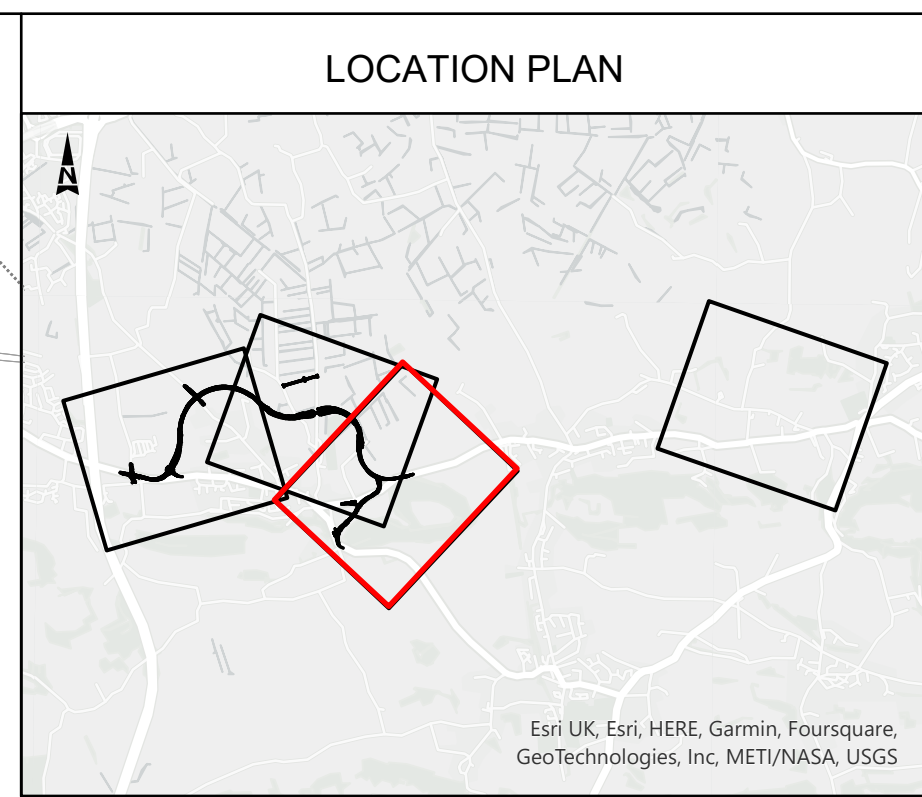
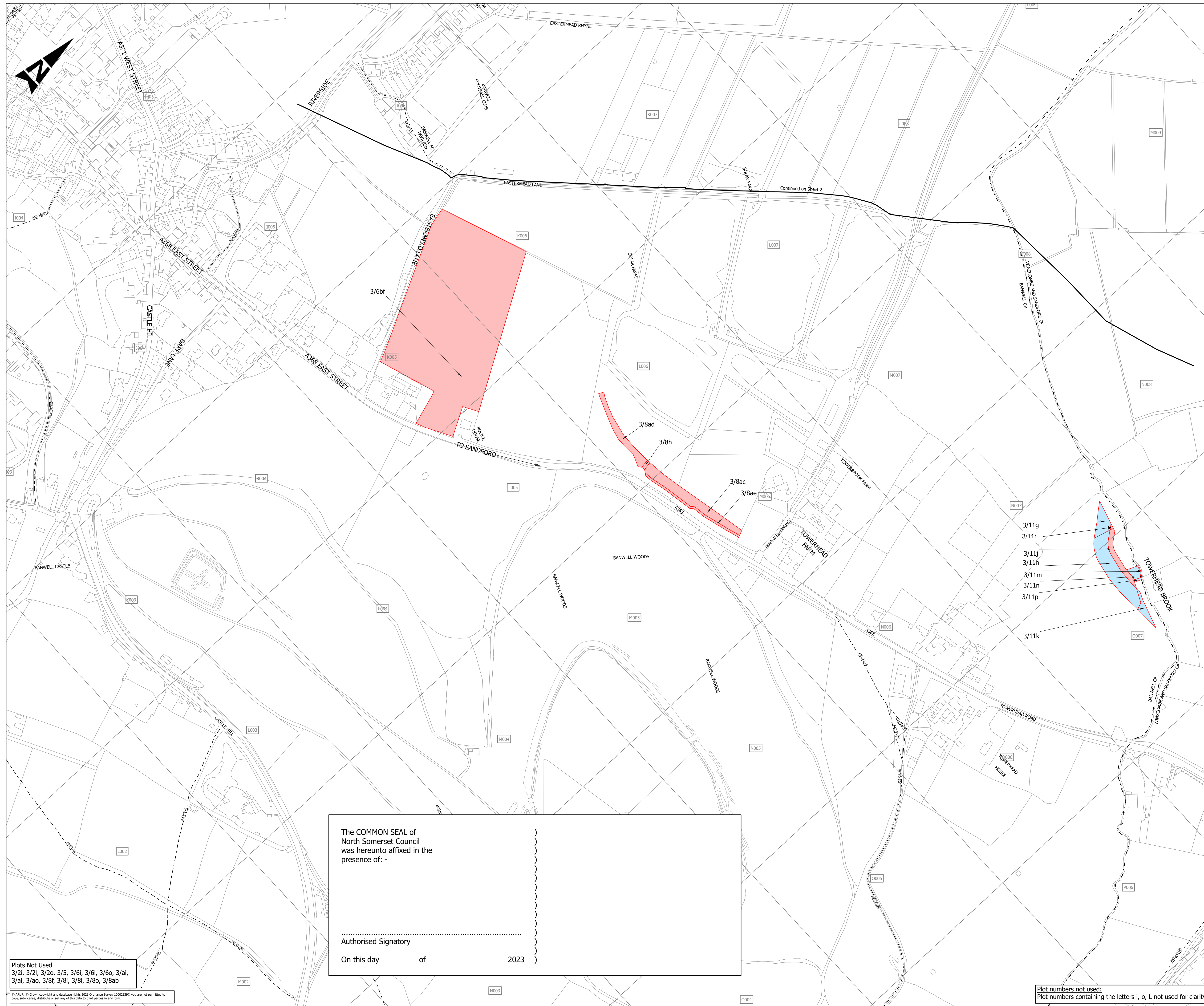
Date: 13 March 2023

WITH ADVICE FROM:

Signed:  Assistant Director Placemaking and Growth. In accordance with delegated authority 22/23 DP 53

Date: 13 March 2023



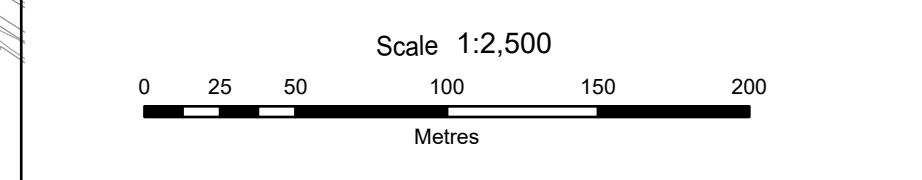


**NOTES FOR INFORMATION**

1. The new highway, for which land delineated on this sheet is required, is referred to in the associated Planning Application Reference Number 22/P/1768
2. For construction and improvement of highways in pursuance of the associated Side Roads Order on land delineated on this sheet, see Site Plan 3 of the North Somerset Council (Banwell Bypass and Southern Link Classified Road) (Side Roads Order) 2022.

**LEGEND**

- LAND TO BE ACQUIRED
- NEW RIGHTS TO BE CREATED
- PUBLIC RIGHT OF WAY
  - FOOTPATH
  - RESTRICTED BYWAY
- PARISH/WARD BOUNDARIES
- ENCLOSURE NUMBERS



The COMMON SEAL of North Somerset Council was hereunto affixed in the presence of: -

.....  
 Authorised Signatory

On this day                      of                      2023

Plots Not Used  
 3/2i, 3/2j, 3/2o, 3/5, 3/6i, 3/6j, 3/6o, 3/a, 3/a, 3/ao, 3/8f, 3/8i, 3/8l, 3/8o, 3/8ab

Plot numbers not used:  
 Plot numbers containing the letters i, o, L not used for clarity.

Project Title				MAP REFERRED TO IN THE NORTH SOMERSET COUNCIL (BANWELL BYPASS AND SOUTHERN LINK) COMPULSORY PURCHASE ORDER (NO.2) 2023	
Drawing Title				SUPPLEMENTAL COMPULSORY PURCHASE ORDER SHEET 3 OF 3	
Project	Originator	Volume	Location	Type	Role
BNWLBP	ARP	LLO	X BB Z	DR	ZL
		000014			
					P03

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## North Somerset Council – Public Sector Equality Impact Assessment

### NORTH SOMERSET COUNCIL (BANWELL BYPASS) SIDE ROADS ORDER 2022 and NORTH SOMERSET COUNCIL (BANWELL BYPASS) COMPULSORY PURCHASE ORDERS (1&2) 2022 and 2023

The purpose of this assessment is to assess the Project's potential impact on people with 'protected characteristics' under the Equality Act 2010 ("the Act").

North Somerset ("the Council") is subject to the general Public Sector equality Duty ("PSED") under section 149(1) of the Act. The Council understands that it must have due regard to the following objectives when exercising relevant public functions:

The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (s.149(1)(a));

The need to advance equality or opportunity between persons who share a relevant protected characteristic and persons who do not share it (s.149(1)(b)). This involves having due regard to the needs 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 persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and

encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it (s.149(1)(c)). This includes having due regard to the need to tackle prejudice and promote understanding (s.149(5)).

The assessment is intended to demonstrate how the Council has had due regard to their PSED objectives above in relation to the Project. Specifically, this assessment has been prepared to reflect the Council's consideration of possible impacts on equalities groups arising from their proposed actions in response to the plan and the mitigation of those impacts.

**Dated:** 03.03.23

<b>Step 1: Background</b>	
1 - What are you assessing?	<p>The impact of the making of the <b>NORTH SOMERSET COUNCIL (BANWELL BYPASS) SIDE ROADS ORDER 2022 and NORTH SOMERSET COUNCIL (BANWELL BYPASS) COMPULSORY PURCHASE ORDERS (1&amp;2) 2022 and 2023</b></p> <p>The land subject to the Order is located to the north of Banwell, North Somerset and in surrounding villages (“the Order Land”) as shown on the plan accompanying the Order (“the Order Map”) and (“Supplemental Order Map”).</p> <p>The “Order Land” is required to facilitate development of the Banwell Bypass and Highways Improvements scheme (the “Project”).</p> <p>The Council has applied for planning permission to develop the Order Land, this PSED assessment covers both Compulsory Purchase Orders (1&amp;2) associated with the scheme and the subsequent Side Road Order. The planning application has been subject to a separate PSED assessment.</p>
2 - What are the aims and purpose of this proposal?	<p>The Council wishes to undertake the CPO in order to secure the development of Banwell Bypass and Highways Improvements scheme.</p> <p>The Scheme comprises the following distinct elements:</p> <ul style="list-style-type: none"> <li>(a) a bypass of the village of Banwell (referred to as the “<b>Banwell Bypass</b>”);</li> <li>(b) a route connecting the A371 at Castle Hill and the A368 at East Street (referred to as the “<b>Southern Link</b>”); and</li> <li>(c) mitigation and enhancement measures, which broadly consist of the following: <ul style="list-style-type: none"> <li>(i) environmental mitigation and enhancement measures in connection with the Banwell Bypass and the Southern Link, examples of which include (but are not limited to) flood compensation areas, planting and habitat creation, attenuation basins etc.</li> <li>(ii) placemaking improvements within Banwell, comprising mitigation and enhancement measures to the public realm; and</li> <li>(iii) traffic mitigation in connection with the Banwell Bypass and the Southern Link, including improvements to the wider local road network.</li> </ul> </li> </ul> <p>The objective is to ensure the successful delivery of the Project by ensuring that the Order Land is delivered in accordance with the Project timescales and objectives.</p>



<b>Step 1: Background</b>	
3 - Who is responsible for the proposal you are assessing?	The Project is being undertaken by the Council.
4 - Who is the Lead for this assessment?	Jennifer Devereux
5 - Who else is involved in undertaking this assessment?	N/A
6 - Who would be affected by the proposal(s) (adversely or positively, directly or indirectly)?	Those that may be directly affected by the Project include those with land interests which may be acquired or be subject to the grant of rights by either the first or second CPO. The affected parties will be detailed in the CPO.

8 - Is the proposal relevant to how the Council complies with the public sector general duty relating to people who are protected by the Equality Act 2010?	Yes	No
The elimination of discrimination and harassment	x	
The advancement of equality of opportunity	x	
The fostering of good relations	x	
The protection and promotion of human rights	x	
Note: As a general rule, any policy that affects people is likely to be relevant across all protected groups		

<b>Step 2: Information Gathering</b>	
<p>9 - Are there any Human Rights issues? If so, what are they? (For example, could this proposal result in the failure to safeguard the right to privacy?)</p> <p>(The 16 basic rights are listed at Appendix 1).</p>	<p>Yes. The Council has carefully considered the impacts of the proposals on human rights, further to legal advice. The Council's assessment of human rights is detailed in the Statement of Reasons which accompanies the Order for CPO (1). A further Statement of Reasons will be produced for the supplemental CPO (2) which will consider the impacts against human rights.</p>
<p>10 - What has been done to date in terms of involvement and consultation with regard to this proposal?</p>	<p>Appropriate consultation with the affected landowners for CPO 1 started in September 2020 and is ongoing. Representations can also be made in the context of the compulsory purchase process which allows objections to be made which will be considered by the Secretary of State if not resolved. The objection period for CPO 1 ran for 6 weeks through October and November of 2022 and we received 55 objections in total, we are considering all necessary actions to objections that have raised an equalities impact.</p> <p>A further 3 week objection period will run for CPO 2 (anticipated in March 2023), again all landowners affected by the CPO have been written to and meetings have been held and will continue.</p> <p>Furthermore, those directly affected by the CPO (i.e. the landowners or others with a relevant interest in the land required for the Project) may be entitled to statutory compensation if the CPO are confirmed and the powers are exercised.</p>
<p>11 – Have you used any other information that is relevant to the proposal to inform your assessment? If so, please detail:</p>	<p>All materials which are relevant to the Project have been considered in the preparation of this assessment.</p>
<p>12 - Are there any gaps in the information collected to date?</p> <p>If so, how will these be addressed?</p>	<p>No.</p>

**Step 3: Considering the potential impact and identifying mitigating action**

**13 — Note below any likely impact on equality for each individual group, and identify what action could be taken to reduce or improve the impact.** \*For determining potential impact, please choose from the following: **Low/Medium/High**

<b>Protected group</b>	<b>*Potential Impact</b>	<b>Details of the impact</b>	<b>Actions to mitigate negative impact</b>
Age	LOW	The CPO process, including consultation, could exclude specific demographic groups if not undertaken in a sensitive, inclusive manner.	The Council will continue to engage with affected parties sensitively and put in place appropriate measures to ensure that no demographics are excluded (for example, by ensuring that CPO documents are made available in an appropriate format and any venues used as part of the CPO process are accessible). The CPO documents will comply with Public Sector Accessibility regulations.
Disability	LOW	The CPO process, including consultation, could exclude people on the basis of disability if not undertaken in a sensitive, inclusive manner.	The Council will continue to engage with affected parties sensitively and put in place appropriate measures to ensure that no demographics are excluded (for example, by ensuring that CPO documents are made available in an appropriate format and any venues used as part of the CPO process are accessible). The CPO documents will comply with Public Sector Accessibility regulations.
Gender reassignment	LOW	The CPO process, including consultation, could exclude specific demographic groups if not undertaken in a sensitive, inclusive manner.	The Council will continue to engage with affected parties sensitively and put in place appropriate measures to ensure that no specific groups with protective characteristics are excluded.
Pregnancy and maternity	LOW	The CPO process, including consultation, could exclude specific demographic groups if not undertaken in a sensitive, inclusive manner.	The Council will continue to engage with affected parties sensitively and put in place appropriate measures to ensure that no demographics are excluded.
Race	LOW	The CPO/SRO process, including consultation, could exclude specific demographic groups if not undertaken in a sensitive, inclusive manner.	The Council will continue to engage with affected parties sensitively and put in place appropriate measures to ensure that no demographics are excluded.



Protected group	*Potential Impact	Details of the impact	Actions to mitigate negative impact
Religion or belief	LOW	The CPO process, including consultation, could exclude specific demographic groups if not undertaken in a sensitive, inclusive manner.	The Council will continue to engage with affected parties sensitively and put in place appropriate measures to ensure that no demographics are excluded.
Sex or sexual orientation	LOW	The CPO process, including consultation, could exclude specific demographic groups if not undertaken in a sensitive, inclusive manner.	The Council will continue to engage with affected parties sensitively and put in place appropriate measures to ensure that no demographics are excluded.
Marriage and civil partnership	LOW	The CPO process, including consultation, could exclude specific demographic groups if not undertaken in a sensitive, inclusive manner.	The Council will continue to engage with affected parties sensitively and put in place appropriate measures to ensure that no demographics are excluded.

<b>Step 4: Outcome of the assessment</b>	
14 - Note the impacts identified and how it is intended to mitigate any high impact (i.e. a summary of the above table)	Potential impacts are centred around the CPO 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.
15 - Is there a strategy for dealing with any unavoidable but not unlawful high impacts that cannot be mitigated?	The Project strategy is to review any impacts that may become apparent during the CPO process and resolve these as they arise. No remaining HIGH impacts have been identified.
16 – Is there a need to reconsider the proposal as a result of conducting this assessment?  (Evidence of high impact could render the proposal or decision unlawful. If you have identified high impact, you should consider at this stage whether it is possible to proceed with the proposal).	No.
17 - Are there monitoring arrangements in place? What are they?	As the Project progresses and is further developed, this Equalities Impact Assessment will be reviewed to ensure that any impacts are duly considered by the Council.

## Step 5: Action Plan

Please detail any actions that are planned following completion of your assessment. You should include any changes that have been made to reduce or eliminate the effects of potential or actual high/negative impact, as well as any arrangements to collect data or to carry out further research.

Ref	Proposed actions	Lead person	Timescale
001	Consider specific measures required to ensure that the CPO process is undertaken sensitively and with regard to all protected characteristics. Discuss and agree proposed measures with the relevant affected party (or their agent), as appropriate.	Jennifer Devereux	Ongoing

## Appendix 1 – Human Rights

Human rights are rights and freedoms that belong to all individuals, regardless of their nationality and citizenship. There are 16 basic rights in the Human Rights Act – all taken from the European Convention on Human Rights. For the purposes of the Act, they are known as ‘the Convention Rights’. They are listed below:

(Article 1 is introductory and is not incorporated into the Human Rights Act)

Article 2: The right to life

Article 3: Prohibition of torture

Article 4: Prohibition of slavery and forced labour

Article 5: Right to liberty and security

Article 6: Right to a fair trial

Article 7: No punishment without law

Article 8: Right to respect for private and family life

Article 9: Freedom of thought, conscience and religion

Article 10: Freedom of expression

Article 11: Freedom of assembly and association

Article 12: Right to marry

Article 14: Prohibition of discrimination

Article 1 of Protocol 1: Protection of property

Article 2 of Protocol 1: Right to education

Article 3 of Protocol 1: Right to free elections

Article 1 of Protocol 13: Abolition of the death penalty