

NORTH SOMERSET COUNCIL DECISION



DECISION OF: COUNCILLOR MARK CANNIFORD,
EXECUTIVE MEMBER FOR SPATIAL PLANNING,
PLACEMAKING AND ECONOMY

IN CONSULTATION WITH: COUNCILLOR HANNAH YOUNG, EXECUTIVE MEMBER FOR
HIGHWAYS AND TRANSPORT

DECISION NO: 24/25 DP 365

SUBJECT: APPROPRIATION OF EASTERMEAD FARM

KEY DECISION: NO

REASON: The decision will not result in the Local Authority incurring expenditure of over £500,000 and does not affect more than one ward.

BACKGROUND:

1. The Orders

- 1.1. **The Council has made and submitted to the Secretary of State for Transport (“the SoS”) for consideration:**
- 1.2. The North Somerset Council (Banwell Bypass and Southern Link) (Side Roads) Order 2022 (“**the SRO**”) and the North Somerset Council (Banwell Bypass and Southern Link) Compulsory Purchase Order 2022 (“**the CPO**”) on 6 October 2022 following decision COU37 taken on 12 July 2022 and the decision of the Leader of the Council and the Executive Member for Major Infrastructure Projects 22/23 DP241; and
- 1.3. The North Somerset Council (Banwell Bypass and Southern Link) Compulsory Purchase Order (No.2) 2023 (“**the Supplemental CPO**”) following decision COU112 taken on 21 February 2023.
- 1.4. Together these are referred to as “**the Orders**”.
- 1.5. The Orders enable the Banwell Bypass and Southern Link highway improvements project (“**the Scheme**”), consented under planning permission 22/P/1768/R3EIA, which was granted on 16 March 2023 (“the Planning Permission”). The Council has identified that there is further land, already in the Council’s ownership, which is required to facilitate works for the Scheme. This further land comprises 14.65ha of

land at **Eastermead Farm** which is outlined in red on the plan at **Appendix A** (“the Site”). Eastermead Farm has previously been occupied by an agricultural tenant, but that on 27th September 2024 the Council and the tenant entered into a Deed of Surrender (24/25 DP 319) (“**the Surrender**”).

1.6. The Site

1.7. The Site is outlined in red on the plan at Appendix A. To enable the Council to construct the Scheme and deliver associated works (drainage, environmental mitigation etc), the Council wishes to seek authority to appropriate 14.65 ha of land outlined in Appendix A. The Council’s records classify the Site as used for agricultural purposes.

1.8. Issue and Proposals

1.9. The Council is required to use its statutory powers of appropriation to transfer the Site from one land use and internal accountancy holding to another. Under the Site’s current designation as agricultural purposes the Council would not be able to carry out the works required for the Scheme in accordance with the Planning Permission.

1.10. In order to deliver the Scheme as consented in the Planning Permission, the Council must use its statutory powers of appropriation to appropriate the Site to change the holding and use of the same from agricultural purposes to highways purposes. The purpose of this report is to seek authority to appropriate the land.

1.11. The council’s Power to appropriate

1.12. Section 122 of the LGA 1972 permits a ‘principal council’ to appropriate any land which belongs to them and is no longer required for the purpose for which it is held immediately before the appropriation. Appropriation can be used for any purpose for which it is authorised by the LGA 1972 or any other enactment to acquire land by agreement.

1.13. Where the Council owns the freehold of the land in question, and is a ‘principal council’, the Council then needs to be satisfied that:

- a) The land is no longer required for the purpose for which it is currently held;
- and

b) The purpose for which the Council is appropriating is one in respect of which the Council would be authorised by statute to acquire by agreement.

- 1.14.** In relation to point (a) above, the question of whether the land is no longer required for its current purpose is solely for the Council to decide in good faith (**DOWTY BOULTON PAUL V WOLVERHAMPTON CORPORATION (1973)**). There is no requirement for the land to have fallen into disuse or disrepair, and the Council is entitled to balance the loss of the current use against the benefits to the wider community in making that decision.
- 1.15.** The Council is entitled when exercising its appropriation power to seek to strike the balance between comparative local (public interest) needs, such as between the need for one use of the land and another with the wider community interests at heart. It is for the authority to keep under review the needs of the locality and it is entitled to take a broad view of local needs such as the benefits of the Scheme.
- 1.16.** The Council is satisfied that this would apply to the appropriation of the Site to facilitate the Scheme.

DECISION:

- 2.** To authorise the appropriation of the Site from agricultural purposes to highway purposes to facilitate the Scheme.

REASONS:

3.

- 3.1** The Council has a statutory duty to provide housing, and this duty needs to be weighed against the benefit of the agricultural land. It is considered that the need for housing (and the infrastructure to support this), outweighs the need for the agricultural purposes at this Site. The Scheme will enable the delivery of housing.
- 3.2** It is considered that the loss can be justified by the benefits to the wider community of the utilisation of the Site for highway purposes. The Site is critical to the delivery of the Scheme.
- 3.3** The highway purposes required by the Scheme that will be facilitated by the appropriation of the site will facilitate improved access.

OPTIONS CONSIDERED:

4. Not appropriating the site for highways purposes would result in the Scheme as a whole not being deliverable and so is not recommended.

FINANCIAL IMPLICATIONS:

5. There are no direct costs of the appropriation process in itself except the administrative costs re-charged to the Banwell Bypass budget within the capital programme. The Surrender has already been approved [reference] and did involve the use of some Scheme funding.

LEGAL POWERS AND IMPLICATIONS:

6. The legal powers and implications are dealt with in section 1.12-1.16 of this report.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS:

7. The appropriation of the Site from its current use and holding to that of highways purposes (shared use path) will have no direct climate change and environmental implications.

CONSULTATION

8. The Council has undertaken a wide range of statutory and non-statutory consultation with the public, statutory environmental bodies and other key stakeholders in relation to the Orders and the Planning Permission.

RISK MANAGEMENT:

9.

9.1 The appropriation process in itself is a legal/administrative process and carries minimal other risks. The key risk to the Council is the risk of legal challenge to the way in which a decision is taken, mitigated by following the statutory process.

9.2 Risks to the Scheme have been considered as part of the reporting and governance for the Scheme. A detailed risk register is maintained and managed for the Scheme.

EQUALITY IMPLICATIONS:

10. Have you undertaken Equality Impact Assessment? Yes, an assessment was undertaken as part of the planning application and to support both the CPO and the Supplemental CPO.

CORPORATE IMPLICATIONS:

11.

- 11.1 The Site is required to facilitate the scheme and the scheme supports the North Somerset Council Corporate Plan 2020-2024.
- 11.2 The Corporate Plan has a priority of a transport network that promotes active, accessible and low carbon travel. The Scheme includes infrastructure which enhances routes for walking, cycling and equestrian use. It also includes mitigation measures to improve highway safety, and environmental mitigation to reduce the Scheme's impact on the environment.
- 11.3 The Scheme supports the North Somerset Council Corporate Plan 2020-2024 whereby delivery of the Scheme is a measure of success against the corporate priority of delivering a broad range of new homes to meet growing need (with an emphasis on quality and affordability)

APPENDICES

12.

- a) Appendix A – Eastermead Farm Appropriation Plan
- b) Appendix B – DP319 ACQUISITION OF LAND AT EASTERMEAD FARM.pdf

BACKGROUND PAPERS

None

SIGNATORIES:

DECISION MAKER(S):

Signed: Executive Member for Spatial Planning,
Placemaking and Economy

Date:

IN CONSULTATION WITH:

Signed: Executive Member for Highways and Transport

Date: