
**NORTH SOMERSET COUNCIL (BANWELL BYPASS AND
SOUTHERN LINK) COMPULSORY PURCHASE ORDER (NO.2) 2023**

STATEMENT OF REASONS

Sections 239, 240, 246, 248, 249, 250, and 260 Highways Act 1980
and
Acquisition of Land Act 1981

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1 INTRODUCTION

1.1 Background

- 1.2 North Somerset District Council (known as North Somerset Council) ("the Council") resolved to make the North Somerset Council (Banwell Bypass and Southern Link Classified Road) ("the SRO") and the North Somerset Council (Banwell Bypass and Southern Link) Compulsory Purchase ("the Order") on 12 July 2022 under the powers contained within the Highways Act 1980 (see **Original Document 24**). The Order and SRO were both made on 6 October 2022. The Department for Transport served the Relevant Date Letter in relation to the Order on 2 February 2023, which confirmed that a public inquiry would be held to consider the Order and the SRO.
- 1.3 On 18 July 2022, a planning application for the Banwell Bypass and Southern Link highway improvements project ("the Scheme") (reference 22/P/1768/R3EIA) ("the Planning Application") was submitted to the local planning authority ("LPA").
- 1.4 The local planning authority ("LPA") granted planning permission pursuant to the Planning Application on 16 March 2023 ("the Planning Permission") (**Supplemental Document 1**).
- 1.5 Following the submission of the Planning Application, but prior to its determination, comments were received from Natural England ("NE"), North Somerset Council (Natural Environment) ("NSCNE") and the Avon Bat Group ("ABG") as part of the statutory consultation. It was asserted that the Scheme requires additional mitigation in order to avoid the potential impacts of the Scheme on bat populations ("the Additional Mitigation"), particularly those present in the North Somerset and Mendip Hills Bat Special Area of Conservation ("the SAC"). The Additional Mitigation was subsequently incorporated into the Scheme and forms part of the development consented by the Planning Permission.
- 1.6 In addition, National Grid Electricity Transmission ("NGET") has raised a recent concern in respect of the interface between its assets and a shared use path which forms part of the Scheme. This consultation with NGET has resulted in the Council progressing an alteration to the alignment of the shared use path. This is explained further at paragraph 4.13 below. It is anticipated that the SRO may also need to be modified to accommodate this change. If that is the case, the Council would carry out further consultation with affected parties in relation to any changes and this would be done prior to the public inquiry into the Order and the SRO.
- 1.7 The need for the Additional Mitigation and the realignment of the shared use path require the acquisition of further land and rights outside the Order Land. The Council has therefore made the North Somerset Council (Banwell Bypass and Southern Link) Compulsory Purchase Order (No.2) 2023 ("the Supplemental Order"). The Council resolved to make the Supplemental Order on 21 February 2023 (**Supplemental Document 4**).

1.8 **Purpose of this Statement**

1.9 This document is the non-statutory Statement of Reasons (“Statement”) prepared in compliance with the Department for Levelling Up, Housing and Communities *“Guidance on Compulsory purchase process and The Crichel Down Rules”* dated July 2019 (“the CPO Guidance”) (**Original Document 1**).

1.10 This Statement relies upon the Statement of Reasons dated 6 October 2022 prepared in support of the Order (“the Original Statement”) (see **Appendix 3**) and does not repeat matters stated in that document, which remain relevant and correct except for any additional information and updates provided in this Statement. The purpose of this Statement is to explain the need for the Supplemental Order, which is only required to secure the land and rights necessary to deliver the Additional Mitigation. It should be read alongside the Original Statement. References to the Original Statement have been included in this Statement where relevant.

1.11 Where references are made to an ‘Original Document’ in this Statement, this is a reference to a document submitted with the Original Statement. Where references are made to a ‘Supplemental Document’ in this Statement, this is a reference to a document submitted with this Statement. The Supplemental Documents are listed in **Appendix 1** of this Statement.

1.12 **The Supplemental Order**

1.13 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”) (**Original Document 4**).

1.14 To enable the Council to acquire the land and rights necessary for the construction and maintenance of the Scheme, the Order seeks to acquire all interests in the Order Land including rights, easements, the benefit of covenants, etc. except where otherwise expressly stated in the Schedule to the Order (**Original Document 3**).

1.15 As explained above, the Supplemental Order is required to support the Order by including the Additional Mitigation needed to deliver the Scheme as consented in the Planning Permission. It is also required to address the concern raised by NGET.

1.16 The land subject to the Supplemental Order (“the Supplemental Order Land”) is located either within the Order Land or immediately adjacent to it. Some of the Supplemental Order Land was included in the Order Land, but the Council only proposed to acquire rights over that land in the Order. In order to deliver the Additional Mitigation and the realignment of the shared use path, the Council now needs to acquire further land and rights. This cannot be done by modification of the Order, as explained further at paragraph 6.11 below.

- 1.17 The Supplemental Order therefore seeks to acquire all interests in the Supplemental Order Land including rights, easements, the benefit of covenants, etc. except where otherwise expressly stated in the Schedule to the Supplemental Order (see **Supplemental Document 2**).
- 1.18 The Council recognises that a compulsory purchase order can only be made if there is a compelling case in the public interest which justifies overriding private rights on the Supplemental Order Land. It is considered that a compelling case exists here for the reasons explained in this Statement.
- 1.19 The Supplemental Order has been made and will be submitted to the Secretary of State for Transport ("the Secretary of State") for confirmation pursuant to the provisions of the Highways Act 1980 and the Acquisition of Land Act 1981 ("ALA 1981"). The Order has already been submitted to the Secretary for confirmation and the objection period expired on 25 November 2022. If a public inquiry is required as a result of objections to the Supplemental Order, the Council intends to request that the inquiry is conjoined with the inquiry to be held to consider the Order and the SRO, subject to securing permission to do so from the Secretary of State.
- 1.20 On confirmation of the Order and the Supplemental Order, the Council intends to either serve Notice(s) to Treat or execute General Vesting Declaration(s) in order to secure unencumbered title to the Order Land and the Supplemental Order Land.

2 SCHEME OVERVIEW

- 2.1 The Scheme comprises the following distinct elements:
- (a) a bypass of the village of Banwell (the Banwell Bypass);
 - (b) a route connecting the A371 at Castle Hill and the A368 at East Street (the Southern Link); and
 - (c) mitigation and enhancement measures, which broadly consist of the following:
 - (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 including for but not limited to bat mitigation, attenuation basins and replacement playing fields;
 - (ii) placemaking improvements within Banwell, comprising mitigation and enhancement measures to the public realm; and

- (iii) traffic mitigation in connection with the Banwell Bypass and the Southern Link, including improvements to the wider local road network.
- 2.2 Further details of the Scheme are set out in section 4 of the Original Statement. The Scheme now also includes the Additional Mitigation which has been incorporated into the Planning Permission.
- 2.3 As a result of representations made on the Planning Application by statutory consultees and the public, the changes listed below also been made to the Scheme:
 - (a) The quantum of land to be provided as replacement land for Banwell Football Club has been increased in order to ensure that policy DM68 is complied with. This change does not require any change to the land proposed to be acquired pursuant to the Order because the need for the additional land was identified prior to the Order being made (see paragraphs 4.15, 4.16 and 8.3(b) of the Original Statement). The increased area has been provided following representations made by Sport England.
 - (b) Additional speed control measures and revised speed limit measures have been included following discussions with the Highways and Transport Development Management at the Council. These changes have been made for highways safety and access reasons.
- 2.4 Further information regarding changes made to the Scheme during the determination of the Planning Application can be found in the Planning Design and Access Statement (**Supplemental Document 5**).
- 2.5 In addition, as referred to above, the Council is progressing an alternative route for a shared use path to accommodate concerns raised by NGET.

3 NEED FOR THE SCHEME

3.1 Introduction

- 3.2 A summary description of the Scheme and an explanation of the need for the Scheme is contained in section 3 of the Original Statement.

3.3 Scheme Objectives

- 3.4 The objectives for the Scheme are set out in section 3 of the Original Statement.

4 DETAILS OF THE SCHEME

- 4.1 The details of the Scheme are outlined in section 4 of the Original Statement. This section of this Statement explains the changes to the Scheme which are the subject of the Supplemental Order.

4.2 Mitigation Measures

4.3 The full detail of the environmental mitigation and enhancement measures proposed in connection with the Banwell Bypass and the Southern Link is contained in section 4 of the Original Statement.

4.4 The Supplemental Order is required to deliver the Additional Mitigation. The Additional Mitigation will be provided alongside, and in addition to, the mitigation measures outlined at paragraph 4.8 of the Original Statement.

4.5 **Development of the Scheme**

4.6 The development of the Scheme up to the point of validation of the Planning Application on 25 July 2022 is outlined in section 4 of the Original Statement.

4.7 Following the submission of the Planning Application, comments were received from NE, NSCNE and ABG as part of the statutory consultation on the Planning Application. It was asserted that the Scheme required further mitigation to avoid the potential impact of the Scheme on bat populations, particularly those within the SAC which use land required for the Scheme for foraging and commuting. Following a number of meetings between 5 October 2022 and 28 November 2022, and the exchange of detailed written comments between NE, NSCNE and the Council, it was agreed that the Additional Mitigation should be provided.

4.8 The Council carefully considered the requests made by NE, NSCNE and ABG. The Council decided that, whilst it was not necessary to include all of the further mitigation measures proposed by the consultees, following further analysis it was considered to be necessary that the Additional Mitigation should be provided to support and reinforce the existing approach to essential mitigation which had been included in the Planning Application as submitted.

4.9 The Additional Mitigation comprises a further 7.7ha of land to:

- (a) reduce the linearity of the mitigation proposed along the Scheme;
- (b) provide enhanced connectivity and permeability for bat species across the wider landscape, and especially to the north and east of the Scheme;
- (c) create 'hop-over' points for bats to facilitate crossing the Scheme and the existing A368; and
- (d) create new habitats and reinforce existing habitats for bats.

4.10 The Council is confident that the revised approach to bat mitigation is necessary and justified in delivering the Scheme. The need for the Additional Mitigation has been

confirmed by NE and NSCNE, and was therefore a requirement of the planning permission for the Scheme.

- 4.11 The LPA subsequently carried out a re-consultation of the Planning Application to give statutory consultees and the public the opportunity to comment on the revised proposals, which included the Additional Mitigation and some other changes to the Scheme (as described above) that do not affect the land and rights required for the Scheme as included in the Order.
- 4.12 As explained above, the Additional Mitigation now forms part of the Planning Permission which was granted by the LPA.
- 4.13 In addition, prior to and during the determination of the Planning Application, engagement has been ongoing with NGET in respect of the intersection of a proposed shared use path (which forms part of the Scheme) and the NGET haul road relating to the Hinckley Connection Project. This intersection occurs within Order plots 3/11e and 3/11f. As part of that engagement, NGET has identified that electricity apparatus is located within the haul road and that at this particular location the apparatus is at a relatively shallow depth because of crossing over a rhyne. NGET raised concerns about the proximity of the shared use path to its electricity apparatus. Whilst the severity of that risk is difficult to quantify, as a precautionary step the Council is progressing a potential design change in this area to realign the shared use path so as to circumvent the area where the apparatus is located closer to the surface. The Council considers that the current design is feasible and deliverable, but engineering solutions would need to be progressed through detailed design in order to address the concerns raised by NGET.
- 4.14 As an alternative, in order to avoid potentially complex engineering solutions, the Council proposes to submit a separate planning application for an alternative route once the main planning permission has been granted. Whilst it is considered that both solutions are likely to be deliverable (and therefore the existing solution does not present an impediment to delivering the Scheme), in order to reduce proximity to NGET's electrical apparatus, the Council is progressing the alternative route design.
- 4.15 **Detailed description of the Scheme route**
- 4.16 A detailed description of the Scheme route is contained in section 4 of the Original Statement. The inclusion of the Additional Mitigation does not affect the alignment of the Banwell Bypass or Southern Link.
- 4.17 **Bridges and Structures**
- 4.18 The Scheme includes a number of bridges and structures, all of which are located along the main Bypass alignment. The details are set out in section 4 of the Original Statement.

4.19 **Landscaping and ecological measures**

4.20 The Scheme will provide a range of landscaping and ecological measures which are outlined in section 4 of the Original Statement.

4.21 As explained above, the Additional Mitigation requires an additional 7.7ha of land for bat mitigation to reinforce the original proposal for ecological mitigation. The Additional Mitigation is proposed at key locations, as shown on the updated Environmental Masterplans (**Supplemental Document 7**).

5 **NEED FOR AND BENEFITS OF THE SCHEME**

5.1 The full case for the Scheme is set out in the Planning Statement (**Original Document 9**) that was submitted with the Planning Application.

5.2 Section 5 of the Original Statement summarises the benefits of the Scheme. Those benefits apply to the Order and Supplemental Order equally, as the Supplemental Order is required to ensure that the Scheme as a whole (and as consented in the Planning Permission) is deliverable.

5.3 **Review against Scheme objectives**

5.4 Section 5 of the Original Statement summarises how the Scheme performs against its objectives. That summary is not repeated in this Statement because the inclusion of the Additional Mitigation does not materially affect the Scheme's compliance with any of its objectives.

6 **THE SUPPLEMENTAL COMPULSORY PURCHASE ORDER**

6.1 The Order (**Original Document 3**) was made by the Council pursuant to powers under sections 239, 240, 246, 248, 249, 250, and 260 of the Highways Act 1980 (as amended) and the ALA 1981.

6.2 As the Supplemental Order is being promoted for the construction of the same Scheme it has been made under the same powers, although there are no changes to the highway to be constructed or improved.

6.3 A summary of the powers in the Highways Act 1980 which are relied upon in relation to the Scheme is provided below:

- (a) By section 239 the Council as the highway authority for the area may acquire land required for the construction of a highway, other than a trunk road, which is to become maintainable at the public expense, as well as any land required for the improvement of a highway. Given that the Additional Mitigation is required in

relation to the construction of a highway, this power continues to be relied upon for the Supplemental Order.

- (b) Under section 240 the Council as the highway authority may acquire land required for use in connection with construction or improvement of a highway and the carrying out of a diversion or other works to watercourses. As the Additional Mitigation is required in connection with the construction or improvement of a highway, this power continues to be relied upon for the Supplemental Order.
- (c) Under section 246, the Council as highway authority can acquire land for the purpose of mitigating any adverse effect which the existence or use of a highway constructed or improved by them has or will have on the surroundings of the highway. The Supplemental Order is required for the delivery of additional essential mitigation and so this power continues to be relied upon.
- (d) Under section 248, the Council as highway authority can acquire land in advance of requirements.
- (e) Section 249 prescribes distance limits from the highway for the acquisition of land for certain purposes.
- (f) Section 250 allows the Council as the highway authority to acquire rights over land, both by acquisition of those already in existence, and by the creation of new rights.
- (g) Section 260 allows the Council as highway authority to override restrictive covenants and third party rights where land acquired by agreement is included in a compulsory purchase order.

6.4 The CPO Guidance (**Original Document 1**) provides guidance to acquiring authorities on the use of compulsory purchase powers and the Council has taken full account of this guidance in making the Supplemental Order.

6.5 The Council is using its powers of compulsory purchase contained in sections 239, 240, 246, 248, 250 and 260 of the Highways Act 1980 (as amended) and the ALA 1981 because it is satisfied that the acquisition of the Supplemental Order Land is necessary to facilitate the construction of the Scheme. Mindful that it should not use a more general compulsory purchase power when a more specific one is available, the Council considers that the powers in the Highways Act 1980 are the most appropriate.

6.6 The purpose in seeking to acquire the land and utilising the powers in the Highways Act 1980 is set out in detail in paragraphs 6.8 – 6.14 below.

6.7 **The Supplemental Order Land**

- 6.8 The Supplemental Order Land has an area of 7.7 hectares. The map accompanying the Supplemental Order (“the Supplemental Order Map”) (**Supplemental Document 3**) shows the extent of the Supplemental Order Land, which comprises 18 plots. The Supplemental Order map comprises 3 sheets.
- 6.9 The land coloured pink on the Supplemental Order Map will be acquired permanently for the Scheme. The Council proposes to acquire the majority of the Additional Mitigation land permanently to ensure that it has future control over that land to deliver and maintain the mitigation. It is also considered that there could be no beneficial use of the land if it was retained by the respective owners and only rights acquired over the land because of the need for comprehensive planting and management. The Council also proposes to acquire all interests in land on which the realigned shared use path is to be located.
- 6.10 The Council is to create new rights over the land coloured blue on the Supplemental Order Map. The rights to be created are necessary for delivering some of the Additional Mitigation where planting and management is required but it is considered this will not conflict with the existing use of the land. It is also proposed to create rights over construction working areas for the new shared use path and to allow for the construction and maintenance of a new drainage outfall into the rhyne and new headwall, along with re-grading of associated earthworks.
- 6.11 It should be noted that some of the land to be permanently acquired pursuant to the Supplemental Order is included in the Order Land. This includes plots 1/12f, 1/12g, 1/12c, 3/6bf, 3/8ad, 3/8h, 3/8ah and 3/8ae as identified in the Supplemental Order (**Supplemental Document 2**). These plots are included in the Supplemental Order because s.14 of the ALA 1981, which permits modifications to be made to a compulsory purchase order by the confirming authority, prohibits modifications which result in additional land being acquired unless the consent of those affected is secured. This is confirmed at paragraph 44 of the CPO Guidance (**Original Document 1**).
- 6.12 As the Council is now proposing to acquire the land – not rights – in relation to these plots, they have been included in the Supplemental Order. The Council will request that the affected plots are removed from the Order, if confirmed by the Secretary of State.
- 6.13 The Supplemental Order includes plots 1/12f and 3/8h which show the route of new private means of access through the Additional Mitigation land. These plots will be reflected on updated SRO plans (see paragraph 12.7 below).
- 6.14 Confirmation of this Supplemental Order will enable the Council to acquire compulsorily land and rights required for the Scheme in order to implement and maintain the Additional Mitigation.
- 6.15 **Efforts to acquire by agreement**

6.16 The CPO Guidance (**Original Document 1**) states:

- (a) *Compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change. Used properly, they can contribute towards effective and efficient urban and rural regeneration, essential infrastructure, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life.*
- (b) *A compulsory purchase order should only be made where there is a compelling case in the public interest.*
- (c) *Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects.*

6.17 Though compulsory purchase is a last resort, the CPO Guidance states (at paragraph 2) that it is often sensible to initiate compulsory purchase procedures alongside the negotiation process and that doing so will help to show the seriousness of the acquiring authority's intentions.

6.18 Summary of negotiations

6.19 The negotiations undertaken in relation to the Order are summarised in section 6 of the Original Statement. The Council will provide an update on progress with those negotiations as part of its case presented at the public inquiry.

6.20 The Council, via their appointed agents, wrote to all parties identified as owners of land impacted by the inclusion of the Additional Mitigation to explain the reason for seeking to acquire the additional land and rights which are required. Those discussions are ongoing, via the landowners' agents where appointed.

6.21 There are four landowners where the Additional Mitigation is to be located (one of which is the Council) and one tenant affected in total by the addition of the Supplemental Order Land in the Scheme. All of the parties have an interest in the Order Land and financial offers for options to purchase land and/or rights have been issued. Negotiation with landowners or their appointed agents are ongoing.

6.22 Part of the Supplemental Order Land is owned by the Council and subject to an existing tenancy agreement. Negotiations with the Council (in its capacity as the freehold owner) and tenant are ongoing for the surrender of the tenancy.

6.23 A further landowner is affected by the realignment of the shared use path. The landowner has been contacted about the need for the Supplemental Order, but due to the more recent addition of that land there has been more limited negotiation regarding the acquisition of the land and rights required.

- 6.24 A summary of the status of negotiations with each of the affected landowners is included at **Appendix 2**, and is up to date at the point of making the Supplemental Order.
- 6.25 Although negotiations with landowners have commenced, it is currently envisaged that the land and rights required for the Scheme cannot be assembled without the use of compulsory purchase powers.
- 6.26 Furthermore, without acquiring all the interests contained in the Supplemental Order the Council cannot guarantee being able to comply with the requirements of the Planning Permission for the Scheme, which includes the need to implement the Additional Mitigation.
- 6.27 Progressing the Supplemental Order in parallel increases the likelihood of voluntary agreements being reached with some owners as they have greater incentive to engage with the Council.
- 6.28 **Justification for Compulsory Purchase**
- 6.29 The Scheme is required in order to meet the objectives set out in section 3.14 of the Original Statement.
- 6.30 Due to the complexity of the land assembly required to deliver the Scheme, it is unlikely that this can be achieved within the timeframes required to secure the Housing Infrastructure Fund (“HIF”) funding (detailed in section 7 of the Original Statement) without the use of compulsory purchase powers. However, it does remain the Council’s intention to seek to acquire land and rights on a voluntary basis wherever possible. This approach of “twin tracking” voluntary negotiations with the promotion of the Supplemental Order (and the Order) is aligned with the CPO Guidance (**Original Document 1**).
- 6.31 The Council has undertaken detailed investigations to identify so far as reasonable those with a relevant or compensatable interest. This has included Land Registry, utility and highways searches by the Council’s legal advisors and land referencing agents, the issuing of statutory requisitions for information using powers under section 5A of the ALA 1981 and site visits by both the Council and the appointed land referencing agents. The Council is satisfied that it has taken all reasonable steps to identify relevant or compensatable interests. However, it remains the case that there may be unidentified third party interests in the Supplemental Order Land. Compulsory purchase powers are also required to ensure these do not prevent delivery of the Scheme.
- 6.32 As set out in section 5 of the Original Statement, the Scheme will bring numerous benefits to the local area, including relieving existing traffic congestion, economic benefits, and providing new and improved infrastructure to enable residential development (subject to the emerging Local Plan).

- 6.33 The Planning Permission has been granted since the Order was made. The Council is not aware of any planning impediment to the Scheme.
- 6.34 It is therefore considered that compulsory purchase is necessary and justifiable in the public interest.

7 IMPLEMENTATION OF THE SCHEME

7.1 Funding

- 7.2 Section 7 of the Original Statement details the funding which is available to Scheme. The funding arrangements have not changed since the Order was made. The funding is primarily available under the Grant Determination Agreement entered into between the Council and Homes England ("the GDA"). Under that agreement, approximately £65,300,000 is available for the Scheme.

- 7.3 Section 7 of the Original Statement explains that, in addition to the requirement for land acquisition, there are a number of other milestones in the GDA which are relevant to the portfolio of projects for which funding is being provided. The Council is liaising with Homes England in relation to these requirements. An update will be provided to the public inquiry in so far as these might impact the Scheme funding. In particular, the Council also intends to update its analysis of the economic benefits of the Scheme in advance of the public inquiry to reflect changes to the Scheme's design and any updates required to reflect revised costings (as necessary).

- 7.4 Under the terms of the GDA, the Council is required to fund any costs overruns which exceed the total HIF budget. There is potential for funding to be available through developer contributions secured through section 106 agreements/community infrastructure levy towards improvements in the area or through the re-profiling of existing capital, if it is considered that additional monies are required for scheme delivery.

7.5 Scheme costs

- 7.6 The Scheme costs are outlined in section 7 of the Original Statement.
- 7.7 As the Additional Mitigation and potential realignment of the shared use path which form the Supplemental Order Land constitute only a limited increase in the land and rights required when compared against the Order Land, there is no material change to the costs of land acquisition. Furthermore, the delivery of the Additional Mitigation in particular is primarily achieved by additional planting and land management, which has a relatively low cost. The realignment of the shared use path would require a different and slightly more complex engineering solution, but is still a minor change when compared to the Scheme as a whole.

7.8 The anticipated costs of constructing the Scheme are, therefore, also not materially affected by the delivery of the Additional Mitigation and the realignment of the shared use path.

7.9 Land acquisition costs

7.10 An updated property costs estimate for the Supplemental Order Land has been prepared by the Council's advisers. The estimated additional cost currently stands at £330,700 (excluding potential Part 1 claims and fees), which covers the acquisition of all of the land and rights included within the Supplemental Order.

7.11 Construction costs

7.12 As previously reported in the Original Statement, the current construction cost estimate attributed to the Scheme is £37,289,585. This figure includes detailed design cost estimate of £1,245,000.

7.13 The additional construction costs associated with the Additional Mitigation and the alteration to the shared use path represent a minor element of the overall costs of constructing the Scheme.

7.14 The construction costs will be reviewed against the funding available prior to construction commencing.

7.15 **Funding conclusion**

7.16 The funding available for the Scheme is sufficient to fund the land acquisition and construction costs relating to the Additional Mitigation and shared use path. There is, therefore, not considered to be any funding impediment to the Scheme.

7.17 **Delivery Programme**

7.18 Construction is hoped to commence in 2024 with an anticipated 2 year construction programme. This represents a slight change from the dates stated in the Original Statement. This will be subject to the land assembly and compulsory purchase process.

7.19 The Council is satisfied that, if the Order is confirmed, it will be able to implement the Scheme.

8 **THE PLANNING POSITION**

8.1 The Planning Permission for the Scheme was granted on 16 March 2023 (see **Supplemental Document 1**). The Planning Permission includes the Additional Mitigation.

8.2 The Planning Application was considered against the national, regional and local planning policy framework. The Planning Statement, as referred to the Original Statement (**Original**

Document 9) was submitted in support of the Planning Application for the Scheme sets out the policy framework in detail and assesses the Scheme's compliance with, or divergence from, relevant policies.

- 8.3 Since the Planning Statement was prepared, a further Planning Design and Access Statement Update (**Supplemental Document 5**) was submitted in support of the Planning Application for the Scheme during determination and considers the inclusion of the Additional Mitigation against the policy framework.
- 8.4 The delivery of the Additional Mitigation supports and strengthens the planning case in support of the Scheme and further ensures that it meets policy requirements. It addresses comments made by the key statutory consultees, NE and NSCNE. The requirements of the Additional Mitigation areas have been determined by reference to relevant planning policy and also to the 'North Somerset and Mendip Bats Special Area of Conservation Guidance on Development: Supplementary Planning Document' ("**the SPD**") (**Supplemental Document 8**), adopted in January 2018. The SPD contains guidance on the approach to assessing development with the potential to impact on the SAC. The Additional Mitigation proposals also take into account a further guidance document prepared by Mendip District Council and adopted in May 2019 which provides guidance on development affecting the Mendip District Bat Special Areas of Conservation (**Supplemental Document 9**).
- 8.5 Now that the Planning Permission has been granted by the LPA, the Council (in its capacity as promotor of the Scheme) is not aware of any planning impediment at this stage which would prevent the Order, Supplemental Order and associated orders from being confirmed by the Secretary of State.
- 8.6 As referred to above, the Council is progressing an alternative route for a shared use path to accommodate concerns raised by NGET. It is anticipated that a separate planning application will shortly be submitted for these works for the reasons outlined. The Council (in its capacity as promotor of the Scheme) is not aware of any reason why this separate application would not be granted, and anticipates that this matter will be regularised prior to any public inquiry. Alternatively, this issue will be dealt with in detail in the Council's evidence for the inquiry as required.
- 8.7 **National Planning Policy**
- 8.8 National Planning Policy Framework (2021)
- 8.9 Compliance with the National Planning Policy Framework ("NPPF") is set out in the Planning Statement (**Original Document 15**) and outlined further in the Planning Design and Access Statement Update (**Supplemental Document 5**). The relevant NPPF policies

are considered in section 8 of the Original Statement. There are no additional national policy considerations relevant to the Supplemental Order.

8.10 Regional Policy

8.11 The relevant regional planning policies are considered in section 8 of the Original Statement. There are no additional regional policy considerations relevant to the Supplemental Order.

8.12 Local Policy

8.13 The relevant local planning policies are considered in section 8 of the Original Statement. There are no additional local policy considerations relevant to the Supplemental Order. The SPD was considered as part of preparing the Planning Application, but is referred to expressly in this Statement given its direct relevance to the Additional Mitigation.

8.14 Emerging Local Plan policies

8.15 The Council has recently undertaken Regulation 18 consultation on the emerging North Somerset Council Local Plan (2023-2038). The emerging Local Plan (**Original Document 19**), as currently prepared, continues to safeguard the Banwell bypass and is discussed in further detail in section 8 of the Original Statement.

8.16 Corporate Plan

8.17 The Scheme also supports the North Somerset Council Corporate Plan 2020-2024 (**Original Document 27**) and this outlined further in the Original Statement.

9 HUMAN RIGHTS ACT

9.1 Section 9 of the Original Statement includes information relating to the application of the Human Rights Act 1998 to the Scheme.

9.2 The Original Statement acknowledges that the exercise of compulsory purchase powers may infringe the human rights of persons with an interest in land. This infringement is authorised by law provided that:

- (a) There is a compelling case in the public interest for the compulsory acquisition powers included within the CPO, and that proper procedures are followed.
- (b) Any interference with a human right is proportionate and otherwise justified.

9.3 The Supplemental Order Land does not include the acquisition of any residential or commercial properties. The current use of the Supplemental Order Land is agricultural or, in relation to one plot, as a traditional orchard (where rights only are being acquired).

- 9.4 It is recognised that the Scheme, including the Additional Mitigation, may have an impact on individuals; however, this is outweighed by the significant public benefits that will arise from the Scheme, as set out in section 5 of the Original Statement. The Supplemental Order is necessary to ensure that the Scheme as a whole can be delivered for the reasons explained above.
- 9.5 The Council must strike a fair balance between the public interest in seeing the Scheme proceed (which is unlikely to happen in the absence of the compulsory acquisition powers being obtained) and the private rights which would be affected by the compulsory acquisition.
- 9.6 In relation to both Articles 1 and 8, the compelling public interest case for the compulsory acquisition powers included within the Supplemental Order has been demonstrated in this Statement (and for the reasons set out in the Original Statement). The land over which compulsory acquisition powers are sought is the minimum necessary to ensure the delivery of the Scheme. The Scheme has been designed to minimise detrimental impacts, whilst achieving its publicly stated objectives. In this respect the interference with human rights is both proportionate and justified.
- 9.7 In relation to Article 6 it is the case that proper procedures have been followed for both the consultation on the Scheme and for the determination of the compulsory purchase powers included within the scheme. Throughout the development of the Scheme, persons with an interest in the land have had full opportunity to comment on the proposals in a non-statutory capacity, and the Council has endeavoured to engage with landowners. The Council has been responsive to landowner feedback in both the initial design of the scheme and in iterative design changes throughout the development of the Scheme. Further statutory consultation has been undertaken as part of the determination of the Planning Application for the Scheme. It is this consultation which led to the inclusion of the Additional Mitigation, and the Council subsequently re-consulted on the Planning Application. The Council has engaged separately with directly affected landowners.
- 9.8 Any person affected by the exercise of compulsory acquisition powers may be entitled to compensation.

10 PUBLIC SECTOR EQUALITY DUTY

- 10.1 Section 10 of the Original Statement explains the public sector equality duty ("PSED") which the Council must comply with.
- 10.2 An Equality Impact Assessment ("EqIA") was undertaken for the Scheme (as defined at that time) (**Original Document 14**). None of the impacts identified in the EqIA relate to land acquisition.

- 10.3 A separate EqIA was therefore undertaken in relation to the Order and SRO (**Original Document 26**). This details how the Council has had regard to its PSED duty in relation to the Order and SRO.
- 10.4 The Council has subsequently undertaken an updated EqIA to include consideration of the Supplemental Order (**Supplemental Document 10**). This updated EqIA identifies that 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 documents relating to the Order, Supplemental Order and SRO are made available in an appropriate format and any venues used as part of the CPO/SRO process are accessible). The Supplemental Order documents will comply with Public Sector Accessibility regulations.
- 10.5 In order to comply with the PSED the Council will continue to monitor and consider equality issues routinely throughout the implementation of the Scheme.

11 SPECIAL CONSIDERATIONS

- 11.1 Special category land can include the following:
- (a) Land acquired by a statutory undertaker for the purposes of their undertaking;
 - (b) Local authority owned land; or land acquired by any body except a local authority who are, or are deemed to be, statutory undertakers for the purposes of their undertaking;
 - (c) Land held by the National Trust inalienably;
 - (d) Land forming part of a common, open space, or fuel or field garden allotment.
- 11.2 This section also considers the following additional land/designations, although it is recognised that these do not meet the statutory definition of special category land:
- (a) Crown Land – including that held by The Crown Estate Commissioners or Government departments;
 - (b) Designated & Non-designated Heritage assets;
 - (c) Listed buildings;
 - (d) Buildings subject to building preservation notices;
 - (e) Other buildings which may be of a quality to be listed;
 - (f) Buildings within a conservation area;
 - (g) Scheduled monuments;

- (h) Registered parks, gardens or historic battlefields; and
- (i) Public Highways and Public Rights of Way.

11.3 **Statutory undertakers**

11.4 Where statutory undertakers' apparatus is affected by the Scheme arrangements will be made to protect or divert the apparatus under the provisions of the New Roads and Street Works Act 1991. Detail on statutory undertakers' apparatus has been obtained via utility searches and discussions with relevant statutory undertakers.

11.5 Detailed discussions have also been held with all relevant statutory undertakers to allow the progression of discussions in relation to C3s (cost estimates for diversion works).

11.6 A full list of statutory undertakers affected by the Scheme is included in the Book of Reference in the schedule to the Supplemental Order (**Supplemental Document 2**).

11.7 **Local Authority owned land**

11.8 The Supplemental Order Land includes land owned by North Somerset Council.

11.9 In certain circumstances, special parliamentary procedure can be triggered where a CPO includes local authority owned land. However, there is an exemption to this (under section 17(4) ALA 1981) where the land is being compulsorily acquired by a local authority, as it is here. Therefore, special parliamentary procedure under section 17(1) and (2) ALA 1981 will not apply.

11.10 The land owned by North Somerset Council within the Supplemental Order Land is not currently held for highway purposes and so will need to be appropriated by the Council for these purposes. That process will be progressed in parallel with the Order and Supplemental Order.

11.11 **National Trust land**

11.12 The Scheme does not require any land owned by the National Trust.

11.13 **Land forming part of a common, open space, or fuel or field garden allotment**

11.14 There is no common land or fuel or field garden allotment land within the Supplemental Order limits.

11.15 There is no open space land which is within the Supplemental Order limits.

11.16 **Crown land**

11.17 There is no Crown land within the Supplemental Order limits.

11.18 **Heritage Assets**

11.19 The Additional Mitigation does not affect any designated heritage assets. There are no ancient monuments or listed buildings within the Supplemental Order Land. The Supplemental Order Land all lies outside of the Banwell Conservation Area.

11.20 **Public rights of way**

11.21 There are no public rights of way located within the Supplemental Order Land. Section 11 of the Original Statement considers the impacts of the wider Scheme on public rights of way.

12 **RELATED APPLICATIONS/APPEALS/ORDERS**

12.1 **The Order**

12.2 The original Order which is subject to confirmation by the Secretary of State for Transport and made under the Highways Act 1980 (**Original Document 3**). The full title of the Order is:

12.3 THE NORTH SOMERSET COUNCIL (BANWELL BYPASS AND SOUTHERN LINK) COMPULSORY PURCHASE ORDER 2022

12.4 **The Side Roads Order (SRO)**

12.5 The SRO (**Original Document 5**) will, subject to confirmation by the Secretary of State for Transport, empower the Council to stop up existing side roads and private means of access affected by the Scheme, to improve existing side roads and to create new side roads and private means of access as a consequence of the main works.

12.6 The Original Statement contains further information regarding the SRO in section 12.

12.7 The Secretary of State will be requested to make modifications to the SRO including:

- (a) Alterations to SRO plots 3/4a and 1/6a to ensure that the private means of access to be provided extend through the Additional Mitigation which is now being proposed at the entrance to the accesses.
- (b) Alterations to the shared use path at SRO plot 3/5a to accommodate the potential alternative alignment to address concerns raised by NGET in relation to its apparatus.

12.8 In addition, other modifications will be requested to reflect minor alterations to the Scheme following the making of the SRO due to some design changes as a result of the planning process and objections received to the Order and SRO.

12.9 It is considered that these modifications are capable of being made by the Secretary of State in accordance with the provisions of paragraph 8(3) of Schedule 1 of the Highways Act 1980 and that it is not necessary to make a supplemental or additional SRO. The Council will provide a full update on these matters to the Secretary of State and affected persons in advance of the public inquiry.

12.10 The full title of the SRO published under the Highways Act 1980 is:

THE NORTH SOMERSET COUNCIL (BANWELL BYPASS AND SOUTHERN LINK CLASSIFIED ROAD) (SIDE ROADS) ORDER 2022

12.11 **The Need for Side Roads Alterations**

12.12 The proposed alterations to existing highways and private means of access that would be affected by the Scheme are detailed in the Schedule attached to the SRO (**Original Document 5**), and shown diagrammatically on the SRO plans (**Original Document 6**). The Original Statement outlines the details of the need for side roads alterations. As mentioned above, the Secretary of State will be asked to make a minor modification to the SRO in relation to SRO plots 1/6a, 3/4a and 3/5a.

12.13 **Proposed SRO arrangements**

12.14 The highways which are proposed to be improved under the SRO (**Original Document 5**), are outlined in section 12 of the Original Statement.

12.15 **Traffic Regulation Orders**

12.16 The Scheme will also require Traffic Regulation Order(s) (TRO) which will be secured under the Road Traffic Regulation Act 1984. Further details of these TRO(s) are contained in section 12 the Original Statement.

13 CONCLUSION

13.1 For the reasons set out in this statement, the Council considers that there is a compelling case in the public interest for making and confirming the Supplemental Order.

14 COMPENSATION ISSUES

14.1 The Council will endeavour to discuss compensation issues and to purchase properties and necessary rights over/in land by agreement, if possible, rather than compulsorily.

14.2 The Council will endeavour to discuss compensation issues arising from the Noise Insulation Regulations 1975 with the owners of the relevant properties.

14.3 Provision is made by statute with regard to compensation for the compulsory purchase of land and the depreciation in the value of affected properties. More information is given in

the series of booklets published by the Department for Levelling Up, Housing and Communities entitled *Compulsory Purchase and Compensation* listed below:

- (a) Booklet No 1 – Compulsory Purchase Procedure - <https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-1-procedure>
- (b) Booklet No 2 – Compensation to Business Owners and Occupiers - <https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-2-compensation-to-business-owners-and-occupiers>
- (c) Booklet No 3 – Compensation to Agricultural Owners and Occupiers - <https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-3-compensation-to-agricultural-owners-and-occupiers>
- (d) Booklet No 4 – Compensation to Residential Owners and Occupiers - <https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-4-compensation-to-residential-owners-and-occupiers>
- (e) Booklet No 5 – Reducing the Effect of Public Development: Mitigation Works - <https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-5-reducing-the-adverse-effects-of-public-development>

15 THE ORDER, ORDER MAP AND STATEMENT OF REASONS

- 15.1 A copy of the Supplemental Order (**Supplemental Document 2**), Supplemental Order Map (**Supplemental Document 3**), and this Statement can be inspected during normal office hours at:
- (a) Campus Library, Highlands Lane, Weston-super-Mare BS24 7DX;
 - (b) Weston-super-Mare Library, North Somerset Council, Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ; and
 - (c) Banwell Parish Council Office, Banwell Youth & Community Centre, West Street, Banwell, BS29 6BD (only available on Tuesdays and Thursdays between 10am to 12 noon).
- 15.2 The Order, SRO and Original Statement remain available to be inspected at the same locations.
- 15.3 The Supplemental Order can be viewed online at <http://banwellbypasscpo.co.uk>.
- 15.4 This Statement of Reasons for making the Supplemental Order is not intended to discharge the Council's statutory obligations under the Compulsory Purchase (Inquiries Procedure) Rules 2007.

16 ADDITIONAL INFORMATION

16.1 Supporting documents

16.2 In the event of public local inquiries into the Supplemental Order, Order and/or SRO, the Council intends to refer to or put in evidence the documents listed in **Appendix 1** to this document. This list is not intended to be exhaustive and should it be necessary to hold a public inquiry into the Order and/or the SRO the Council may refer to or put in evidence further documents, a list of which will be supplied in due course.

16.3 Owners and tenants of properties affected by the Supplemental Order, Order or the SRO who require information about the CPO or SRO process can contact the Banwell Bypass Team at North Somerset Council on 01275 884390 or at Banwell.bypass@n-somerset.gov.uk.

North Somerset Council

21 March 2023

Appendix 1

Supplemental Document List

Number	Description	Date
1.	Planning Permission	16 March 2023
2.	Supplemental Order	March 2023
3.	Supplemental Order Map	March 2023
4.	Resolution to make the Supplemental Order	21 February 2023
5.	Planning Design and Access Statement Update	December 2022
6.	Environmental Statement Update	December 2022
7.	Environmental Masterplans	December 2022
8.	North Somerset and Mendip Bats Special Area of Conservation Guidance on Development: Supplementary Planning Document	January 2018
9.	Mendip District Council Special Area of Conservation 'Guidance on Development'	May 2019
10.	Equality Impact Assessment for Supplemental Order	February 2022

Appendix 2

Summary of Negotiations

Landowner(s)	Parcel Number(s)	Land or rights (or both)	Reason for acquisition	Summary of the current position
Peter John Gwyn	1/12c 1/12f	Freehold land acquisition.	Environmental mitigation and the provision of a construction compound.	Outline heads of terms for an option to purchase issued in May 2022 and negotiations commenced for the acquisition of rights over this plot, as identified within the earlier Compulsory Purchaser Order. The landowner has been advised of the need for a freehold acquisition for the stated purpose and a financial offer was made in February 2023 together with updated heads of terms which remain in negotiation.
Terry John Adams	2/11g 2/11h	Rights acquisition.	Environmental mitigation.	Outline heads of terms for an option to purchase land to the north of this plot were issued in September 2022, as identified within the earlier Compulsory Purchaser Order. The landowner has been advised of the need for the acquisition of rights for the stated purpose and a financial offer was made in February 2023 together with updated heads of terms which remain in negotiation.
North Somerset Council (freehold owner) Peter Romley Davies (tenant)	3/6bf	Freehold land acquisition.	Environmental mitigation.	Land is owned freehold subject to tenancy by North Somerset Council and negotiations with the tenant are ongoing for the surrender of their tenancy.
Pamela Julia Ball & Steve John Perks	3/8h 3/8k 3/8ac	Freehold land acquisition.	Environmental mitigation	Outline heads of terms for an option to purchase land to the south of this plot were issued in September 2022, as identified within the earlier Compulsory Purchaser Order. The landowner has been advised of the need for a freehold acquisition for the

				stated purpose and a financial offer was made in February 2023 together with updated heads of terms which remain in negotiation.
Executors of John Windham Gerrett	3/11g, 3/11h, 3/11j, 3/11k, 3/11m, 3/11n, 3/11p, 3/11q	Freehold land and rights acquisition.	Construction, maintenance and use of new shared use path and associated works	Outline heads of terms for an option to purchase land in adjoining plots were issued in September 2022 as identified within the earlier Compulsory Purchaser Order and a financial offer was made in February 2023, together with updated terms which remain in negotiation. The landowner has since been advised of the need for the acquisition of additional land and rights for the stated purpose.

Appendix 3

Original Statement