

North Somerset Council

Report to Full Council

Date of Meeting: 12 July 2022

Subject of Report: Approval of the making of Compulsory Purchase Order(s) (and related Side Roads Orders and Traffic Regulation Orders) for the Banwell Bypass and Highways Improvements scheme (“the Scheme”)

Town or Parish: Banwell and surrounding parishes

Officer/Member Presenting: Councillor Steve Hogg

Key Decision: No

Reason: This is not an Executive Decision.

Recommendations

It is recommended that the Full Council:

- (a) approve the area to be the subject of a compulsory purchase order (“CPO”) or supplemental CPO as shown edged red on the plans at **Appendix 1 (“the CPO Plan”)**, which identifies the outline area of the land and rights to be acquired for the Scheme (“**the CPO Land**”) by voluntary acquisition or compulsory purchase;
- (b) authorise the making of CPO(s) by the Council under sections 239, 240, 246 and 250 of the Highways Act 1980 in respect of all or part of the CPO Land (including any additional land which may be required to deliver the Scheme as a result of the requirements of the Scheme planning permission), which includes any land or rights that may be required for environmental enhancement and mitigation, flood compensation, replacement land provision or otherwise needed for the Scheme;
- (c) authorise the making by the Council of Side Roads Orders (“SRO”) under the Highways Act 1980 as may be required for the Scheme;

- (d) authorise the making by the Council of Traffic Regulation Orders (“**TRO**”) under the Highways Act 1980 as may be required for the Scheme;
- (e) authorise the making by the Council of an application to the Secretary of State for Transport (“**the Secretary of State**”) for the grant of a certificate under section 19 of the Acquisition of Land Act 1981 (“**section 19 certificate**”) in respect of any special category land that may be required for the Scheme;
- (f) authorise all necessary steps to be taken to secure the making, confirmation and implementation of each CPO, SRO and any TRO (together “**the Orders**”) and section 19 certificate, including the publication and service of all notices, requisitions for information, statement of reasons and the preparation and presentation of the Council’s case at any public inquiry required to secure confirmation of the Orders and section 19 certificate by the Secretary of State;
- (g) note, and give due regard in determining whether or not to authorise the making of the Orders, the public sector equality duty contained in section 149 of the Equality Act 2010 and the requirements of the Human Rights Act 1998, as detailed further in sections 3 and 9 of this Report;
- (h) authorise agreements to be entered into with landowners to secure the withdrawal of objections to any of the Orders and/or a section 19 certificate and to authorise the Director of Place and the Director of Corporate Services to take all necessary steps to acquire by agreement land and/ or rights over the CPO Land, subject to any consideration payable being within the Scheme budget as set out in section 5 of this Report;
- (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;
- (j) subject to confirmation of the CPO and SRO, delegate the authority to the Director of Place, and the Assistant Director Legal & Governance and Monitoring Officer to acquire all the land and rights over the CPO land, including service of a general vesting declaration, notice to treat or notice of entry, subject to any compensation to be paid being within the Scheme budget as set out in section 5 of this Report;

- (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;
- (l) delegate to the Director of Place and the Assistant Director Legal & Governance and Monitoring Officer (or the Executive Member for payments of over £500,000) the authority to negotiate and settle all necessary compensation and professional fees (including interim payments) either as agreed with landowners or as determined by the Lands Chamber of the Upper Tribunal in relation to the acquisition of land or rights forming part of the CPO Land in accordance with the Land Compensation Act 1961, the Compulsory Purchase Act 1965 and the Land Compensation Act 1973 provisions in force at the relevant time and the body of case law relevant to the assessment of compensation, where any compensation to be paid is within the Scheme budget as set out in section 5 of this Report;
- (m) authorise the instruction of the Scheme Project Team's legal advisers, Burges Salmon LLP, to prepare and serve such documentation as may be required for the Orders and section 19 certificate.

1. Summary of Report

1.1 The following Council decisions have preceded this Report:

- (a) On 16 June 2020, the Council approved an increase in the Council's Capital Programme by £97,067,550.00 in response to receiving approval and funding in relation to the Housing Infrastructure Fund ("HIF") (Forward Fund) in order to finance the Scheme.
- (b) On 7 October 2021, the Executive Member for Assets and Capital and the Director of Place approved route 2 of the three northern route options as the preferred route for the proposed Banwell Bypass (see decision 21/22 DP 213).
- (c) On 28 April 2021, the Executive authorised all the steps necessary to prepare for the making of a CPO for the Scheme and to enter into voluntary agreements with landowners for the acquisition of land and rights required for the Banwell Bypass, subject to relevant financial limits (see decision EXE 13).

1.2 Work has been progressing on the Scheme design. The Scheme design is close to finalisation and work on the environmental impact assessment ("EIA") is also near

completion. Once the EIA work has been completed, a planning application will be submitted to the Council in its capacity as planning authority. This application is expected to be submitted in July 2022.

- 1.3 This Report makes reference to the draft Environmental Statement which contains the output of the EIA. As the Environmental Statement is yet to be finalised, it is not yet publicly available. This Report summarises some of the key findings of the EIA process so consideration can be given to the impacts of the Scheme for which compulsory purchase powers are sought, although it should be noted that, because this work is currently ongoing, these findings are subject to change until the planning application is submitted. The determination of the planning application for the Scheme does not form part of the resolutions sought in this Report. The planning application will be submitted shortly and will be subject to a separate process of formal consultation and consideration. Therefore, the planning application documents (including the draft Environmental Statement) have not been appended to this Report.
- 1.4 The Scheme will likely require the promotion of CPO(s) and will also require the promotion of SROs and TROs. The Scheme will also likely require the acquisition of special category land, and it is anticipated that a section 19 certificate will need to be secured from the Secretary of State to confirm that the relevant statutory exceptions apply and no replacement land is required.
- 1.5 This Report seeks authority to make and publish the Orders for the Scheme and subsequently to secure the confirmation and implementation of those Orders. The Report also seeks authority to negotiate the withdrawal of any objections to the Orders or the section 19 certificate.

2. Policy

Summary

- 2.1 The planning application for the Scheme is being considered against the national, regional and local planning policy framework. Chapter 4 of the Environment Statement will contain a full description of the relevant policy requirements, including current national policies in the National Planning Policy Framework (2021), existing regional policies, with a focus on The West of England Combined Authority (“**WECA**”), and local planning policy in the adopted and emerging North Somerset Council development plan.

- 2.2 Although the Council is not part of WECA, some policies and strategies do apply to the Council where it is in partnership with WECA.
- 2.3 A Planning Statement will be submitted with the planning application for the Scheme which will set out the policy framework in detail and assess the Scheme's compliance with, or divergence from, relevant policies. This Report does not set out the detail of that analysis as it is primarily relevant to the determination of the planning application. However, this section of the Report does set out the key relevant local and regional policies which are important to consider in assessing the need and policy support for the Scheme for which compulsory purchase powers are sought.
- 2.4 It is acknowledged that careful assessment of the planning merits of the Scheme and its compliance with policy will need to be undertaken by the Council in its capacity as local planning authority once the planning application is submitted. The purpose of this Report is to authorise the making, confirmation and implementation of the Orders. It is not within the scope of this Report to undertake a detailed analysis of the planning merits of the application.
- 2.5 Subject to the consideration of the planning application by the local planning authority, the Project Team is not aware of any reason why the planning permission would not be granted and is not, therefore, aware of any known planning impediment at this stage which would prevent the CPO and associated orders/certificates from being confirmed by the Secretary of State. The Project Team has engaged in extensive pre-application discussions with the local planning authority and other consultees, as explained further in section **Error! Reference source not found.** below.

National Policy

- 2.6 Relevant national planning policies are summarised in **Appendix 2** of this Report.

Regional Policy

- 2.7 The main relevant regional policy is the Joint Local Transport Plan 4 (“**JLTP4**”). JLTP4 is a strategic transport policy document which encourages modal shift and identifies one of its aims as ensuring that transport is carbon neutral by 2030. The document identifies the need for highway improvement and traffic management schemes, including a bypass of the village of Banwell.

Local Policy

North Somerset Council Core Strategy

2.8 This Scheme is supported by Core Strategy policies including:

- (a) Vision 1: North Somerset Vision
- (b) Vision 6: Service Villages Vision
- (c) CS1: Addressing climate change and carbon reduction
- (d) CS3: Environmental Impacts and flood risk Impacts
- (e) CS4: Nature Conservation
- (f) CS5: Landscape and the historic environment
- (g) CS7: Planning for waste
- (h) CS9: Green Infrastructure
- (i) CS10: Transportation and movement
- (j) CS12: Achieving high quality design and place making
- (k) CS13: Scale of new housing
- (l) CS14: Distribution of new housing
- (m) CS15: Mixed and balanced communities
- (n) CS16: Affordable Housing
- (o) CS26: Ensuring safe and healthy communities
- (p) CS27: Sport, recreation and community facilities
- (q) CS32: Service Villages
- (r) CS34: Infrastructure delivery and development contributions

Site and Policies Plan Part 1: Development Management Policies

2.9 The following Development Management policies are of particular relevance to the Scheme:

- (a) DM20: Major Transport Schemes. This policy safeguards the previous alignment of the Banwell bypass from inappropriate development. The safeguarded route is broadly equivalent to the adopted route alignment for the Scheme.
- (b) DM68: Protection of sporting, cultural and community facilities. This policy is considered to be applicable due to the acquisition of part of the land currently occupied and used by Banwell Football Club for the Scheme. As a result of the need to acquire this land, it is proposed to include the acquisition of replacement land within the CPO which satisfies the requirements of policy DM68. The land identified to replace the land lost by BFC is considered to comply with the requirements of policy DM68 and be the most appropriate replacement land.

2.10 The Scheme is also supported by the following Development Management policies:

- (a) DM1: Flooding and drainage
- (b) DM3: Conservation Areas
- (c) DM4: Listed Buildings
- (d) DM6: Archaeology
- (e) DM7: Non-designated heritage assets
- (f) DM8: Nature Conservation
- (g) DM9: Trees and Woodlands
- (h) DM10: Landscape
- (i) DM11: Mendip Hills Area of Outstanding Natural Beauty (AONB)
- (j) DM19: Green Infrastructure
- (k) DM24: Safety, traffic and provision of infrastructure, etc. associated with development
- (l) DM25: Public rights of way, pedestrian and cycle access
- (m) DM26: Travel Plans
- (n) DM28: Parking Standards
- (o) DM29: Car Parks

(p) DM52: Equestrian Development

Emerging Local Plan policies

- 2.11 The Council has recently undertaken Regulation 18 consultation on the new North Somerset Council Local Plan (2023-2038). The emerging Local Plan, as currently prepared, continues to safeguard the Banwell bypass.
- 2.12 The new Local Plan currently proposes the allocation of 2,800 homes around Wolvershill Road to the north of Banwell. The Scheme is essential for enabling the delivery of this housing.

Corporate Plan

- 2.13 The Scheme also supports the North Somerset Council Corporate Plan 2020-2024 as the delivery of the Scheme is a project which is a measure of success against the priority of delivering a broad range of new homes to meet growing need, with an emphasis on quality and affordability.
- 2.14 The Corporate Plan acknowledges that, despite good strategic links, travelling around North Somerset by road or public transport is not always easy due to congestion and a limited bus network. 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.
- 2.15 The Corporate Plan also acknowledges that there is a need for significantly more homes to meet the demand of the Council's growing population and government targets, including affordable homes. The Corporate Plan places a priority on delivering the Banwell Bypass by 2024 to ensure that the Council can support a policy of supplying quality and affordable homes to ensure a five year supply is in place. An objective of the Scheme is to deliver infrastructure that enables housing (subject to the new Local Plan process), and so in this way the Scheme supports the provision of new housing.

3. Details

Background

- 3.1 The Council submitted an Expression of Interest on 28 September 2017 to the HIF Forward Fund. The objectives of this bid were to provide infrastructure and education provision which can support the delivery of existing and potential housing allocations totalling 7,557 new dwellings. 4,482 of the homes are to be located at the existing Weston Villages development sites; the specific numbers and locations of the residual dwellings will be subject to the new Local Plan process.
- 3.2 Following a successful shortlisting, decision COU18 on 8 May 2018 gave authority to work up the business case for this Scheme, as part of Stage two: Co-Development. This work was completed and the HIF business case was submitted on 7 February 2019 following approval under 18/19 DE341.
- 3.3 What is now the Department for Levelling Up, Housing and Communities, recommended to (the now) Secretary of State for Levelling Up, Housing and Communities approval for the Council's HIF Forward Fund bid. This was confirmed on the 26 November 2019 in a letter to the Council.
- 3.4 The Scheme is part of the wider project which is financed under the HIF Forward Fund. The HIF Forward Fund will be used to build the new bypass of the village of Banwell, fund online improvements to the surrounding highway network, improve the area's utilities network, and provide an expansion of the Winterstoke Hundred Academy secondary school in Locking Parklands. The expansion of the Winterstoke Hundred Academy does not form part of the Scheme and is not relevant to this Report.
- 3.5 The Capital Programme was increased by £97,067,550, the total HIF grant from Homes England, at the Full Council meeting on 16 June 2020.

Scheme Objectives

- 3.6 The overall objectives for the Scheme (which must be delivered within cost, quality, and programme targets) are to:
 - (a) Improve the local road network to deal with existing congestion issues.
 - (b) Improve and enhance Banwell's public spaces by reducing traffic severance and improving the public realm.

- (c) Provide the opportunity to increase active and sustainable travel between local villages and Weston-super-Mare.
- (d) Deliver infrastructure that enables housing development (subject to the Local Plan).
- (e) Ensure the development respects the local area and minimises visual impact upon the surrounding countryside and Mendip Hills Area of Outstanding Natural Beauty (“**AONB**”).
- (f) Innovative and efficient in reducing and offsetting carbon from the design and construction of the infrastructure.
- (g) Ensure the development provides the opportunity to increase Bio-Diversity Net Gain by at least 10%.
- (h) Proactively engage with stakeholders in a way that is both clear and transparent. Deliver infrastructure that enables housing development.

Scheme Description

3.7 The full extent of the Scheme is shown edged red on the plan at **Appendix 3 (“the Scheme Plan”)**. The Scheme Plan shows the extent of the planning application redline boundary, subject to any further changes prior to submission of the planning application.

3.8 The Scheme comprises the following distinct elements:

- (a) a bypass of the village of Banwell (referred to as the “**Banwell Bypass**”);
- (b) a route connecting the A371 at Castle Hill and the A368 at East Street (referred to as 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, attenuation basins etc.
 - (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.

Banwell Bypass

3.9 The Banwell Bypass would primarily consist of:

- (a) signalisation and capacity improvements to the Summer Lane/Wells Lane junctions on the A371;
- (b) a 40mph single carriageway bypass, connecting the existing A371 (east of Summer Lane) to A368 (west of Towerhead Farm);
- (c) a 3 metre wide shared use path provided along the Banwell Bypass providing a link from Weston-super-Mare and the strawberry Line (Sandford) as well as various links back into Banwell village;
- (d) Banwell West Junction – a three arm roundabout with road lighting, located east of Knightcott Industrial Estate at the western end of Banwell;
- (e) Wolvershill Road Junction – a traffic signalised junction with road lighting, providing access for all users to the west, east, and north. Access to the south would be restricted to public transport and walking, cycling and horse-riders, and limited agricultural access only;
- (f) Banwell River Bridge – an overbridge across Riverside and the River Banwell. There would not be a direct connection between Riverside and the Bypass;
- (g) Moor Road to Riverside Link – a side road connection between Riverside and Moor Road; and
- (h) Banwell East Junction – a three-arm traffic signalised junction, with dedicated turning lanes from the bypass towards the Southern Link.

Southern Link Road

3.10 The Southern Link will provide the new primary route south to Winscombe, as Castle Hill and Dark Lane are proposed to be stopped up. The Southern Link would be a 30mph single carriageway, connecting the A368 (East Street) to the A371 at Castle Hill. The Southern Link would be located within the Mendip Hills Area of Outstanding Natural Beauty (“AONB”). The Southern Link would link into the Banwell Bypass at

the Banwell East Junction. A T-junction located along the Southern Link would provide access into the east of Banwell (at East Street).

Mitigation Measures

- 3.11 Environmental mitigation and enhancement measures are proposed in connection with the Banwell Bypass and the Southern Link.
- 3.12 The Scheme would include mitigation measures which are provided to offset the impact of the Banwell Bypass proposal. These include (but are not limited to):
- (a) flood mitigation to ensure that the Banwell Bypass does not increase flood risk for third-party properties;
 - (b) essential environmental mitigation, such as ecology and landscape mitigation;
 - (c) sustainable urban drainage systems (e.g. attenuation basins and swales), and additional groundwater mitigation, to prevent adverse water quality impacts (including the Source Protection Zone): and
 - (d) replacement land to mitigate the impact of the scheme on Banwell Football Club.

Placemaking Improvements within Banwell

- 3.13 As a result of the Banwell Bypass, there would be a reduction in traffic through Banwell. The reduction in traffic (and resulting reduction in congestion) through the village could result in higher traffic speeds without mitigation.
- 3.14 A reduced 20mph speed limit through Banwell would discourage vehicles from travelling at higher speeds, whilst also discouraging the use of the road as a through route (instead of the Banwell Bypass).
- 3.15 The reduction of traffic through Banwell due to the provision of the Banwell Bypass provides the opportunity to make improvements to the existing road and public spaces within Banwell to enhance the historic and urban setting of the village. These improvements would include, but are not limited to:
- (a) alteration to the road and footways including resurfacing, widening, and narrowing (which would encourage drivers to comply with the posted 20mph speed limit);
 - (b) incorporation of active travel measures;

- (c) soft landscaping and ecological improvements; and
- (d) street signage improvements.

Improvements to the wider local road network

3.16 Improvements to the local road network in the surrounding villages of Churchill, Sandford and Winscombe are proposed to mitigate increases in traffic as a result of the Banwell Bypass. These mitigation measures would consist of:

- (a) Lowered speed limits:
 - (i) 20mph: A368 through Churchill, A368 through Sandford, A371 through Winscombe.
 - (ii) 30mph: A368 between Churchill and Sandford Villages.
- (b) Gateway Features when entering and exiting the villages of Sandford, Churchill and Winscombe.
- (c) Non-physical traffic calming measures through and between villages (e.g. road markings and speed signage).
- (d) Capacity improvements to the Churchill Junction (A38/A371).
- (e) Provision of new / improvements to existing pedestrian and cycling crossings.
- (f) Active travel measures along the A368, with improved footway/cycleway access from Sandford, Churchill, and Langford to Churchill Academy.
- (g) Improvements to footways, shared pedestrian, and cycleway.
- (h) Soft landscaping, native planting, rewilding, and ecological enhancements.

Rights of Way to be Stopped Up

- 3.17 There are public rights of way proposed to be stopped up as part of the Scheme. Suitable alternative re-provision and connections will be made. The full detail of these arrangements will be made available at the point of publishing the SRO, however, a summary is set out below.
- 3.18 The following public rights of way are currently proposed to be stopped up as part of the Scheme:

- (a) Well Lane will be stopped up and a replacement connector road to the A371 will be constructed.
- (b) Part of public right of way AX3/11/10 will be stopped up where the new classified road crosses that footpath.
- (c) Part of the A371 Knightcott Road will be stopped up to prohibit vehicular access, and alterations made to accommodate the new Banwell West Junction and new Summer Lane junction.
- (d) Wolvershill Road will be stopped up to allow for the construction of the Banwell Bypass junction. Wolvershill Road will then be reopened with traffic restrictions southbound from the junction with the Bypass.
- (e) Part of public right of way AX3/6/10 will be stopped up from a point 109 metres north east of Whitecross Cottage for a distance of 34 metres north east and from a point 259 metres north east of Whitecross Cottage. An alternative public right of way connection will be provided
- (f) Part of public right of way AX3/6/10 will be stopped up for a length of 320 metres in a generally north easterly direction, from its junction with Cook's Lane, with an alternative path provided along Cook's Lane. A crossing over the Banwell Bypass is provided to allow continuity of this route.
- (g) The existing Moor Road under the trace of the Banwell Bypass would be stopped-up. The southern section of Moor Road would become a 'no through road' accessed from Riverside only, with no direct access from the Banwell Bypass.
- (h) Parts of the A371 Castle Hill and Dark Lane would be stopped-up at their southern ends where they meet the Southern Link, with no direct vehicular access provided onto the Southern Link.
- (i) Part of the A368 in the area around Abbey Lodge and Towerhead Farm will be stopped up to allow for the construction of the Banwell East Junction.
- (j) Eastermead Lane will be stopped up from a point 270 metres north east of Banwell Football Club Pavilion for a distance of 119 metres to the north east.

3.19 Some other public rights of way (footpaths) will be stopped up under the SRO, but only to allow for the creation of new public rights of way classed as bridleways in the same location. These currently include:

- (a) A public right of way referenced as AX14/21/20, for its entire length from its junction with the A368 to its junction with Churchill Green.
- (b) A public right of way, referenced as AX14/36/30, AX14/36/20 and AX14/36/10, from its junction with Church Lane (near St John the Baptist's Church) in a generally easterly direction to its junction with Ladymead Lane.

3.20 The following private means of access are currently proposed to be stopped up:

- (a) Unclassified field access off existing A371 located 101 metres west of Knightcott Motors garage.
- (b) Unclassified field access directly off existing A371 located directly opposite Knightcott Motors.
- (c) Unclassified field access directly off existing A371 located 71 metres east of Knightcott Motors garage.
- (d) Unclassified field access directly off Wolvershill Road located 173 metres north west of Stonebridge Farm.
- (e) Unclassified field access directly off Riverside located 304 metres north of junction between Moor Road and Riverside.
- (f) Unclassified field access directly off A368 East Street located 15 metres west of junction between A368 East Street and Eastermead Lane.
- (g) Unclassified field access directly off A368 East Street located 84 metres east of junction between A368 East Street and Eastermead Lane.
- (h) Unclassified field access directly off A368 Towerhead Road located 208 metres west of junction between A368 Towerhead Road and Catworthy Lane.

3.21 Where private means of access are stopped up, suitable alternative access arrangements will be put in place and provided for in the SRO where required. Details of all new private means of access will be included within the SRO.

The CPO Land

- 3.22 The CPO Plan at **Appendix 1** identifies the extent of the land and rights required for the Scheme. This sub-section sets out an overview of the site of the Scheme.

Banwell village and surrounding area

- 3.23 Banwell is a village and civil parish in North Somerset, its population is 2,929 (according to 2011 Census). The centre of Banwell village is designated as a Conservation Area. Banwell Village is located approximately 3.5 miles east of Weston-super-Mare and 17 miles southwest of Bristol. There are several villages in the vicinity of Banwell, including Sandford and Churchill to the east, Winscombe to the southeast, and Locking and Hutton to the west. The immediate surrounding land use is predominately agricultural, with the Mendip Hills AONB to the south of the village. The nearest railway stations are Worle Station and Weston Milton Station, both on the Weston-super-Mare to Bristol line, which are approximately 2.5 miles and 3 miles northwest respectively. Weston-super-Mare main line station is 4 miles to the northwest. Bristol Airport is 7.5 miles northeast of the village.

Description of land to be included in the CPO

- 3.24 The CPO Land (as demarcated on the CPO Plan) is described below, starting with the western part of the Scheme through to the eastern part of the Scheme.
- (a) The eastern extent of the CPO Land includes parts of the existing A371, Wells Lane and Summer Lane, including land on which existing highways infrastructure is located (such as footways, verge, a bus stop, signage, lighting columns and bollards).
 - (b) At the start of the Banwell Bypass route alignment the Scheme moves north across agricultural land. In this area the CPO Land includes typical agricultural features such as fields, hedges, access tracks and farm outbuildings. This section also includes part of the Stonebridge Caravan Park, through which runs the Wallymead Rhyne. Along the route corridor for the Banwell Bypass, in addition to the proposed new road and active travel route, land is required for environmental and flood mitigation areas and attenuation ponds.
 - (c) The CPO Land crosses Wolvershill Road (including part of the road to the north and south required for the junction alterations) and then to the east includes further agricultural land and associated agricultural features.

- (d) Part of Moor Road is required for the Scheme, together with an adjacent field and pond. Immediately west and parallel to Moor Road is the Old Yeo Rhyne, which the route of the Banwell Bypass would cross.
- (e) A separate strip of agricultural land to the north of the proposed Banwell Bypass route is also included in the CPO Land for the provision of the new Moor Road to Riverside Link.
- (f) The CPO Land includes part of Banwell River and Riverside where the new Riverside Crossing overbridge will be constructed. Further east, the Scheme then crosses a small section of the traditional orchard at Riverside and part of the land in use as playing fields by Banwell Football Club.
- (g) The Banwell Bypass alignment will then turn south towards the A368, and the land required in this section includes further agricultural fields adjacent to the existing solar farm. A separate agricultural field is included in the CPO Land in this area for the re-provision of recreational land for Banwell Football Club.
- (h) At the southern extent of the main route alignment, the CPO Land includes agricultural fields required to enable the construction of the proposed Banwell East Junction and part of the A368 for tie-ins to the existing road network and connection to the proposed Southern Link.
- (i) The Southern Link, including environmental mitigation land, is proposed to be located on an agricultural field to the south of the A368 within the boundary of the Mendip Hills AONB. Parts of Castle Hill and Dark Lane are included within the CPO Land to the south to enable alterations to the existing highway and public rights of way network to accommodate the Southern Link.
- (j) In addition to the land required for the Banwell Bypass and Southern Link, a corridor for an active travel route is included in the CPO Land crossing from Eastermead Lane to the east, through the solar farm and then south to connect with the A368. This corridor is predominantly existing private access routes and agricultural land.
- (k) East of the Banwell Bypass, in the Churchill area, the CPO Land includes three further sections required for improvements to the active travel network and existing highway junctions:

- (i) A route running north-south between Greenhill Road and Churchill Green, alongside an existing public right of way, which is required for improvements to the existing public right of way network.
- (ii) A route running east-west from Church Lane to Ladymead Lane. This land is an existing public right of way and is required to implement widening and improvements to this route. The widening at the eastern extent includes some open space land near Ladymead Lane.
- (iii) A small section of land between the west and south arms of the existing Churchill Gate junction, which is required for improvements to the junction to mitigate the traffic impacts of the Scheme. This section is also believed to be open space land.

Need for Compulsory Purchase Powers

- 3.25 The Highways Act 1980 authorises the Council, as highway authority, to compulsorily acquire land that is required for the construction or improvement of a highway. The relevant statutory provisions are set out in section 6 below. The CPO Land is required for delivery of the Scheme and, where applicable, conforms to the distance limits on compulsory acquisition contained in the 1980 Act.
- 3.26 Government guidance provides further advice on the use of compulsory purchase powers. The Department for Levelling Up, Housing and Communities '*Guidance on Compulsory purchase process and The Criche! Down Rules*' (2019) ("**the CPO Guidance**") 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.

Alleviation of congestion

- 3.27 The primary purpose of the Scheme is to alleviate long-standing traffic congestion in the area around the village of Banwell. Banwell has experienced the negative impact of traffic congestion on its local community, economy and environment since the 1930s. These problems have worsened over the years as new developments have brought increased population and traffic to the area in combination with rising numbers of car ownership and economic factors. The Scheme is proposed in order to tackle these long-standing issues.
- 3.28 The A371 corridor through Banwell provides important local and regional connectivity. Congestion through the village causes journey time delays and uncertainty. This in turn, has economic, transport, cultural, environmental impacts to the area and the wider network. The Scheme strives to address these issues.
- 3.29 Extensive traffic modelling has been undertaken to inform the Scheme design and planning application. The draft modelling, which will be finalised and made available with the planning application, shows that without the Scheme the traffic pressure in the Banwell area will increase by the modelled opening year (2024) and congestion issues will be made worse by the design year (2039) (i.e. the year for which the Scheme is being designed to accommodate future conditions on the road network) as a result of anticipated residential and employment development in the area through new Local Plan allocations.
- 3.30 The draft modelling shows that in the opening year with the Banwell Bypass and the Southern Link (but without the wider mitigation measures) the traffic flows on the A371 through Banwell are forecast to decrease by around 80% compared to the scenario without the Banwell Bypass and Southern Link due to redistribution of traffic onto the bypass. This will significantly reduce congestion and delay in the village.
- 3.31 There is a forecast increase in traffic on the wider local road network as a result of traffic from alternative routes utilising the Banwell Bypass and Southern Link. This will lead to traffic flows (without the mitigations works in place) increasing by around 15% on the A368 near Churchill, 25% on the A368 near Sandford and 5% on the A371 near Winscombe.
- 3.32 In the design year, with the anticipated development as a result of the emerging Local Plan and the Scheme in place, traffic flows in Banwell are anticipated to decrease by around 70% when compared against the scenario without the bypass. Traffic is

expected to increase elsewhere on the local road network. Further increases above those identified in the opening year are generally attributable to the new development anticipated in the emerging Local Plan.

- 3.33 Detailed information regarding traffic modelling and transport impacts will be available in the planning application once submitted.
- 3.34 The need for a bypass for the purposes of alleviating congestion is already established in the current North Somerset Council Development Management Policies: Sites and Policies Plan (Part 1). Policy DM20 (Major Transport Schemes) confirms that the Banwell bypass is one of a number of major transport schemes which are safeguarded by the policy.

Enabling new housing

- 3.35 Funding for the Scheme comes from Homes England's Housing Infrastructure Fund, which has been awarded to deliver the essential infrastructure needed to benefit existing communities and support the delivery of 7,557 new homes. 4,482 of these new homes will be located at the existing Weston Villages development sites of Haywood Village and Locking Parklands where homes are already under construction.
- 3.36 The location of the remaining homes will be decided through the new Local Plan process. Whilst the Local Plan and subsequent future housing still needs to go through the plan-making process to become adopted policy, the Scheme is vital to support the delivery of new development as it improves access to homes, employment and education in the area.
- 3.37 The new housing will result in additional traffic on the local road network, which has been considered as part of the design of the Scheme.

Economic benefits

- 3.38 Improvements to the transport network in the area around Banwell will result in significant economic benefits associated with unlocking the area for new residential and employment opportunities. A draft Economics Appraisal has been prepared to inform the planning application for the Scheme and will be made available when the application is submitted. It shows the potential for significant economic benefits as a result of transport user benefits and significant gross land value uplift for the area, generated by the Scheme.

Complexity of land assembly

- 3.39 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. The land assembly for the Scheme is complex and requires the acquisition of a range of different land interests over a significant number of landholdings. It is highly unlikely that this can be achieved without a CPO.
- 3.40 The CPO is therefore required to deliver these important benefits to the area and it is considered that there is a compelling case in the public interest for the CPO. This case will be advanced in more detail through the statement of reasons prepared at the point of making the CPO and SRO, if authorisation is secured to progress to that stage. Ultimately, the Secretary of State will need to confirm the CPO (and the SRO) before it can be implemented, and be satisfied that a compelling case has been made.
- 3.41 Further details of the compulsory purchase powers to be relied upon for the CPO are contained in section 6 below.

Summary of Negotiations

- 3.42 The Council, via their appointed agents, wrote to all parties identified as owners of land impacted by the Scheme to explain the Council's intentions to negotiate heads of terms for the acquisition of land and rights required for the Banwell Bypass. Correspondence in relation to the main elements of the Scheme was issued in late 2021 and then correspondence in relation to the wider mitigations areas in early 2022.
- 3.43 All parties with interests in land required for the main Banwell Bypass and wider mitigations have been approached, via their agents where appointed. The Council has proposed terms for land and rights acquisitions in order to progress negotiations. Additional work is still being undertaken to finalise designs for the improvements to public rights of way and wider mitigations which form part of the wider Scheme, however, all impacted owners have been consulted on the initial proposals and heads of terms will be issued soon.
- 3.44 If all of the land and rights required for the Scheme can be acquired voluntarily, it will not be necessary to implement the CPO.

Human Rights Act and Evidence of Compliance

3.45 The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights (“**the Convention**”). It includes provisions in the form of Articles which aim to protect the rights of the individual.

3.46 Paragraph 12 of the CPO Guidance sets out how an acquiring authority should take into account Human Rights:

“An acquiring authority should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. Particular consideration should be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention.”

3.47 The Human Rights Act 1998 incorporated into domestic law the provision of the Convention. The relevant articles can be summarised as follows:

(a) Article 1 of The First Protocol ‘Protection of Property’: protects the rights to peaceful enjoyment of possessions. No one can be deprived of their possessions except in the public interest.

(b) Article 6 of the Convention Rights and Freedoms ‘Right to a fair trial’: entitles those affected by compulsory powers to a fair and public hearing.

(c) Article 8 of the Convention of Rights and Freedoms ‘Right to respect for private and family life’: protects the right of the individual to respect for his private and family life, his home and his correspondence. Interference with this right can be justified if it is in accordance with law and is necessary in the interests of, among other things, national security, public safety or the economic wellbeing of the country.

(d) Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with rights protected by the Convention.

3.48 The CPO, if made, 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.

3.49 Of the land being acquired for the Scheme, the plots listed in the table below are worth noting in particular because the acquisition affects either residential or commercial properties. However, it is considered that the acquisition in each case is proportionate and justified.

Residential properties	
25 Castle Hill, Banwell	Hedgerow and part of garden of property required only. Minor impact only.
Commercial Properties	
Stonebridge Farm Caravan Park	Caravan Park, with mix of full service (electric, drainage & water), standard pitches (electric and shared water) and non-electric pitches. Associated dog walking area and drive. Surrounding farmland also within ownership of the site. Significant impact.
Banwell Football Club	As mentioned above, land used by Banwell Football Club is required for the scheme. Although this is a significant impact, suitable replacement land is proposed to be provided in compliance with policy DM68.
Court Farm Country Park	Farm based visitor attraction. Main attraction area is unaffected, however agricultural land located to the south of the farm is affected by the scheme. Minor impact only.

16.1 It is recognised that the Scheme 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 this Report. 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.

16.2 In relation to both Articles 1 and 8, the compelling public interest case for the compulsory acquisition powers included within the CPO has been demonstrated in this

Report. 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.

- 16.3 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. The approach which has been taken to considering alternatives and design changes is explained further in section 13 of this Report. Further statutory consultation will be undertaken when the planning application is submitted.
- 16.4 Any person affected by the exercise of compulsory acquisition powers may be entitled to compensation.

4. Consultation

- 17.1 The Council has undertaken a wide range of consultation with the public, statutory environmental bodies and other key stakeholders. Summaries of the main consultation undertaken are set out in this section of the Report. As mentioned above, there will be a further opportunity for statutory consultation when the planning application is submitted.
- 17.2 Where relevant and feasible, all feedback received as part of the consultation has been used to develop the design of the Scheme.

First Non-Statutory Consultation (July-August 2021)

- 17.3 This consultation asked the public for views on:
- (a) How they use the A371 and A368 and what the existing problems are.
 - (b) The Council's favoured Banwell Bypass route.

(c) Possible mitigations or enhancements for Banwell and the wider local road network.

17.4 On Monday 5 July 2021 the consultation was launched online using the council's eConsult system. Ensuring the consultation was both inclusive and accessible was a key priority and so paper consultations were also made available (on request) for residents without internet access and the Council's customer services team were available to support over the phone.

17.5 In addition to the public information drop-in events, statutory and non-statutory groups were invited to engage in environmentally focussed discussions – including Natural England, Somerset Internal Drainage Board, Environment Agency, and Mendip Hills AONB.

17.6 In total 1,135 responses were received of which 32% were made by residents of Banwell, and 38% were made from the surrounding villages of Sandford, Winscombe, and Churchill. Formal responses were received from residents, businesses and other local bodies, including Banwell, Churchill and Winscombe & Sandford parish councils.

17.7 The following points were observed from the written responses received in response to the public consultation:

(a) Principle of needing to overcome traffic issues in Banwell is generally supported, with many recognising that a bypass is the most appropriate solution.

(b) Concern around the bypass resulting in additional traffic through villages along the A371 and A368 (namely Churchill, Langford, Sandford and Winscombe). Many respondents request additional highways measures to mitigate these impacts, including a bypass directly to the A38. These concerns came largely from residents of these villages.

(c) Impacts upon neighbouring settlements will need to be fully assessed and appropriately mitigated.

(d) Concerns from landowners around loss of land, particularly related to route 2.

(e) Residents of Banwell generally resist the loss of the football pitches at Banwell Football Club, identifying them as important community assets.

- (f) Concerns around amenity impacts (noise, pollution, etc) during construction and operational stages, particularly residents of Banwell.
- (g) Concerns around environmental impacts, particularly biodiversity and flood risk. Issues have also been raised around impacts on the AONB and Groundwater Source Protection Zone related to the Southern Link Road. Impacts upon increased traffic within Churchill Conservation Area also raised.
- (h) Respondents requested that further traffic modelling information is made available and included analysis to show impact of proposed future housing development.
- (i) Many respondents would like to see a better-connected network of pedestrian/cycle routes as part of the wider scheme of improvements.

17.8 All consultation responses received were analysed to understand individual views, opinions and suggestions on the bypass and improvements to minimise potential impacts of the scheme. This first consultation was early in the design process and feedback was used by the design team to identify areas of aspiration and concern to inform the design.

17.9 The outcomes of this consultation are set out in the Banwell Bypass & Highway Improvements Consultation Report at **Appendix 4**.

Second Non-Statutory Public Consultation (March-April 2022)

17.10 This was a supplementary non-statutory consultation to gather feedback to help inform particular elements of the design development of the Banwell Bypass and associated proposed changes to Banwell village and its surrounding area, including measures to reduce likely impacts of the Scheme in nearby villages Sandford, Churchill and Winscombe.

17.11 In total, 441 responses were received to the online survey and 36 letters were received.

17.12 The feedback, along with the findings from the environmental surveys and technical investigations and assessments, will be used by the Council to decide how best to develop the Scheme and associated works to mitigate impacts resulting from the Banwell Bypass before the planning application is submitted.

17.13 As part of the consultation, the Council provided information about the Scheme and asked stakeholders including the public for views on:

- (a) The latest iteration of the design of the Banwell Bypass and Southern Link.
- (b) Proposed improvements to the village of Banwell.
- (c) Proposals to nearby roads and villages, including measures to address likely impacts of the Scheme.

17.14 Information in support of the consultation included plans and drawings showing the latest design changes to the Banwell Bypass and Southern Link following feedback from the first public consultation. Information also showed and described proposed changes to Banwell village and proposed changes to nearby roads and villages. In addition, results of the latest environmental surveys and technical investigations and assessments were provided, to help evidence some of the latest decision making.

17.15 The key themes identified were:

- (a) Horse riding: comments on need for improved access lack of consideration.
- (b) Wolvershill Road: comments on design and proposals and general objection to access restrictions.
- (c) Rat running: comments concerning increased/worsening of rat runs and traffic in surrounding villages.
- (d) Impact on greater horseshoe bats should be considered more.
- (e) Negative impact on farming and risks to livestock.
- (f) Concern over associated new housing being delivered.
- (g) Comments regarding biodiversity net gain.
- (h) Speed restrictions: the proposed 20mph speed limits were acknowledged, but further measures are considered necessary to slow traffic. It was suggested that speed cameras are installed.
- (i) Churchill Academy: it is important that Churchill Academy students have a safe route to school and therefore a controlled pedestrian crossing point should be provided on the A368 Dinghurst Road close to the junction with Hilliers Lane bus stop.

- (j) Requests that mitigation measure budget is ring fenced to ensure funds are not used in over-spend of constructions costs.

17.16 The outcomes of this consultation are set out in the draft Second Consultation Analysis Report at **Appendix 8**.

Environmental Consultees

17.17 The following consultation has been undertaken and is ongoing with statutory and non-statutory environmental bodies:

- (a) Environmental Liaison Group: regular sessions have been held with both statutory and non-statutory environmental bodies to update them on the progress of the planning application and EIA. Specific concerns were noted and have informed the design of the Scheme and the progress of the EIA.
- (b) Environment Agency: consultation has been held to agree the scope of flood risk, to consider the risk of impacts on Source Protection Zones and the scope of the Water Framework Directive assessment. This consultation has informed the Scheme design and mitigation measures.
- (c) Natural England: early advice was sought on the requirements of the Habitat Regulations Assessment for the Scheme, the impact on bat populations and foraging areas and the Scheme mitigation proposals.
- (d) Lead Local Flood Authority: regular meetings have been held to discuss the flood risk and drainage strategy and the approach to surface water flooding and mitigation. Feedback has informed the Flood Risk Assessment and flood modelling.
- (e) Internal Drainage Board: consultation was held to discuss flood risk and proposed mitigation.
- (f) Bristol Water: consultation was held to discuss the potential impacts of the band drains, which form part of the Scheme design, on the artesian groundwater supply which supports Banwell Spring. Further targeted groundwater monitoring is being undertaken.

Internal North Somerset Council Consultation

17.18 The following consultation has been undertaken and is ongoing internally within the Council:

- (a) Development Management team: regular consultation has been undertaken with members of the Development Management team to discuss the detail of the Scheme.
- (b) Local Plan team: regular meetings have been held with the team developing the emerging Local Plan to ensure that there is alignment between these two projects. This feedback has been important given the objective of the Scheme to enable new housing being brought forward through the emerging Local Plan, and the design of the Banwell Bypass has taken account of the anticipated location of new housing in the area.
- (c) Public Rights of Way and Sustainable Transport teams: consultation on the Walking, Cycling and Horse-riding Assessment and strategic connectivity including interface with other Council schemes.

Other Key Stakeholders

17.19 The following consultation has been undertaken with other key stakeholders:

- (a) Members of Parliament: the Project Team has been in regular contact with local Members of Parliament to update them on the progress of the design.
- (b) Banwell, Churchill, Winscombe & Sandford Parish Councils: the Project Team has worked closely with the Parish Councils of these villages, providing formal updates and regularly attending Parish Council meetings.
- (c) Public Working Groups: community working groups have been established with the help of the Parish Councils. These groups have provided a forum group members, put forward by the Parish Councils as representative of a broad range of local views, to raise concerns about the possible impacts of the Scheme on the local area.
- (d) Banwell Football Club: due to the need to acquire land occupied by the Club for the Scheme, the Project Team has met with representatives of the Club on several occasions to discuss their needs and seek to minimise any adverse impact on the Club.
- (e) Placemaking drop-in session: an event was arranged at Banwell Youth Community Centre to outline the proposals for placemaking improvements within Banwell. Feedback has helped shape this element of the Scheme.

- (f) Banwell Equestrian Centre: consultation was held to discuss the potential impacts of the Scheme to horse-riding access in the area.
- (g) Greener Church Road (Winscombe) Action Group: this discussion with a local residents' group focused on the mitigation proposals located on Church Road in Winscombe.
- (h) Walking, Cycling and Horse-riding Workshop: a workshop was arranged with local and regional walking, cycling and horse-riding groups to discuss local issues and areas of concern, as well as areas for potential improvement.
- (i) British Horse Society: a meeting was arranged to discuss provision for horse-riders in the area.
- (j) Sustrans & Cycling UK: a virtual meeting was held to discuss provision for cyclists which led to a review of active travel connections.
- (k) Woodspring Rambler: correspondence has been exchanged seeking views on potential impacts on walkers in the area. A meeting was declined.

5. Financial Implications

- 18.1 Before confirming the CPO, the Secretary of State will need to be satisfied that the scheme for which the CPO is sought is viable and likely to proceed. This section sets out headline information about the costs of the Scheme and the funding which is in place.
- 18.2 The cost of progressing the CPO (and other required orders and consents) and constructing the Scheme will be accommodated within the project budget.

Funding

- 18.3 On 24 August 2020, the HIF Grant Development Agreement (“**GDA**”) was entered into between the Council and Homes England. The GDA governs the funding for the Banwell Bypass. The total funds available are approximately £97,100,000 (which have been allocated to build the new bypass of the village of Banwell, fund online improvements to the surrounding highway network, improve the area’s utilities network, and provide an expansion of the Winterstoke Hundred Academy secondary school in Locking Parklands). The funding which is specifically available for the Scheme is approximately £65,300,000. It is available in 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.

Stage 1 funding

18.4 The Stage 1 funding has already been drawn down and is available. It is this funding which is primarily relevant to the resolutions proposed in this Report because it includes the costs of land acquisition (whether voluntarily or by compulsory purchase) and securing the Orders.

18.5 The decision to proceed with the Orders and assemble the land therefore has all necessary funding already available. The budget for land acquisition within the Stage 1 funding is sufficient to meet the costs based on the current property costs estimates, which are set out in the costs section below.

Stage 2 funding

18.6 The Stage 2 funding relates to the construction costs of the Scheme. Prior to drawing down the Stage 2 funding, further approval is required from both Homes England and the Executive.

18.7 Before being able to draw down on the Stage 2 (construction) funds, the Council must provide certain information and documents to Homes England, including:

- (a) a copy of the grant of planning permission and any other consents required for that part of the infrastructure works that are the subject of the claim;
- (b) a satisfactory valuation in respect of the infrastructure site; and
- (c) certificate of title in respect of ownership or rights over the infrastructure site.

18.8 It is therefore a requirement for the Council to secure legal and beneficial ownership and vacant possession of all land and rights required for the Scheme (i.e. those required for the bypass, online improvements and utility upgrades). The land must be secured and the Scheme delivered by certain defined dates. All of the land and rights required for the Scheme will need to be acquired in accordance with the terms of the GDA.

- 18.9 It is this requirement to acquire the land interests in advance of the defined dates which drives the need for the CPO. If the Scheme is not supported by the exercise of compulsory purchase powers this could result in significant delays to the acquisition of land, which may result in the Council not being able to meet the defined dates in the GDA. This could lead to the Council not being able to draw down the Stage 2 funding for construction.
- 18.10 There is some inherent risk in not being able to meet the defined dates as a result of slippage in the Scheme programme. However, based on the current milestones in the GDA and the current progress of the Scheme, it is reasonable to conclude that the Stage 2 funding will be available. Homes England is consulted regularly and there is the potential to agree changes to the funding milestones if needed (although this should not be relied upon).
- 18.11 As will be noted in relation to costs (below), the Stage 2 funding available through the GDA is necessary to support, progress and deliver the Scheme. The level of funding allocated is sufficient to cover the anticipated costs of Scheme construction and associated consultant and professional costs. It should be noted that 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 towards improvements in the area. As things stand, however, it is not anticipated that such alternative funding will be required.
- 18.12 The risk of the Council being exposed to a funding deficit as a result of failing to meet the GDA milestones is mitigated by the phased approach of delivering the Scheme.
- 18.13 Before commencing the construction of the Scheme (reliant on the Stage 2 funds), the Project Team will be in a position to evaluate progress against the GDA milestones and ensure that the timescales can be met before the funding is drawn down and any costs are incurred. As mentioned above, the decision to draw down the Stage 2 funds is also subject to prior approval and scrutiny from Homes England and the Executive.
- 18.14 The risk of any wasted costs from Stage 1 if the decision has to be taken not to proceed with Stage 2 is mitigated by the staggered approach to land acquisition. The availability of funding can be reviewed following confirmation of the CPO but prior to it being implemented and the land being vested in the Council which would trigger the compensation liability. The CPO could, if necessary, be aborted at that stage.

18.15 Similarly, for agreements entered into voluntarily with affected landowners, it is proposed, where possible, to enter into option agreements to secure the land interests. This will reduce the upfront costs payable by the Council, and the options can then be exercised when possession is required, triggering the consideration payable under the terms of the agreement. If the Scheme does not progress for any reason, the options need not be exercised.

Costs

18.16 High level property costs estimates have been prepared by the Council's advisers. These estimates are subject to further analysis and updates as the design of the Scheme and construction working requirements are finalised. This work will be undertaken before the CPO is made and will inform the statement of reasons which will be published alongside the CPO. The estimates are also unpinned by a number of assumptions and caveats which could cause them to change as further analysis is undertaken.

18.17 The current estimates which have been provided are:

- (a) £4,015,171 including £1,060,000 in potential Part 1 claims, principally covering the Banwell Bypass alignment and some assumed construction working areas and mitigation sites (see the Fisher German report dated 15 October 2021 at **Appendix 6**).
- (b) £70,147 for the Langford footpath improvements from Churchill Academy and £19,701 for the A368 to Churchill Academy footpath improvements (see the Fisher German report dated 28 January 2022 at **Appendix 7**).

18.18 Even acknowledging the potential for these estimates to change, there is comfortable headroom in the current Stage 1 budget to deliver the Scheme and acquire the land interests (whether by compulsion or agreement).

Stage 2 costs

18.19 The current construction cost estimate attributed to the Scheme is £37,289,585. This figure includes detailed design cost estimate of £1,245,000.

18.20 The Stage 2 costs will be reviewed against the funding available prior to construction commencing.

18.21 There is, therefore, not considered to be any funding impediment to the Scheme.

6. Legal Powers and Implications

Compulsory Purchase Order

- 19.1 The Council's powers of compulsory purchase to acquire land and interests in land for the Scheme are contained in the Highways Act 1980.
- 19.2 A CPO will not be required for every element of the Scheme. Placemaking improvements within the village of Banwell and the majority of other wider mitigation works in the surrounding villages will be delivered within the existing boundary of the adopted public highway. These works will be undertaken under other powers contained in the Highways Act 1980 available to the Council as local highways authority, and no additional land is required. A comparison of the plans at **Appendix 1** (the CPO Plan) and **Appendix 3** (the Scheme Plan) illustrates the extent of the CPO compared to the Scheme as a whole.
- 19.3 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.
- 19.4 In addition the Council may, under section 250 of the Highways Act 1980, provide for the creation of new rights over land as well as for the acquisition of rights already in existence.
- 19.5 Section 249 of the 1980 Act sets out distance limits from the middle of the existing or new highways beyond which land to be acquired must not exceed. These limits do not apply to land and rights required for mitigation of the adverse impacts of the Scheme.

The land and rights required for the construction or improvement of the Banwell Bypass and Southern Link are within these limits.

- 19.6 Procedural matters relating to the service and making of the CPO are contained in the Acquisition of Land Act 1981.
- 19.7 The Acquisition of Land Act 1981 also provides that where special category land is acquired by compulsory purchase a special parliamentary procedure must be completed unless the Secretary of State issues a section 19 certificate.
- 19.8 A section 19 certificate can only be issued where the Secretary of State is satisfied that suitable replacement or exchange land is being provided (where relevant), or where:
- (a) the land does not exceed 250 square yards in extent; or
 - (b) is required for the widening or drainage of an existing highway (or partly for the widening and partly for the drainage of an existing highway);
- and
- (c) where providing exchange land is unnecessary, whether in the interests of persons with rights over the land being acquired or in the interests of the public.
- 19.9 There is no land included in the CPO Land in respect of which exchange land is required. There are some parcels of land proposed to be acquired which are, or may be, special category land. This land includes potential open space land and potential allotment plots. The status of this land has been reviewed by the Project Team's advisers and, subject to further land referencing being undertaken, all of this potential special category land is considered to fall within the exceptions set out at paragraph 19.8 above. A section 19 certificate will be required, but there are no known impediments to securing the grant of the certificate.
- 19.10 In addition, land referencing has identified that there may be land within the CPO Land boundary in the ownership of a Parish Council at Castle Hill. Where land in the ownership of a Parish Council is acquired by a local authority (such as North Somerset Council) using compulsory purchase powers, although the land may be in principle categorised as special category land there is no additional process which must be followed in order for the land to be acquired. This is confirmed in section 17 of the Acquisition of Land Act 1981.

19.11 The primary legal implication of not securing a CPO is that the land required for the Scheme may not be capable of being secured, or alternatively may not be secured in line with the GDA milestones. Additional risks relevant to securing the CPO are set out in section 10 of this Report.

Side Roads Order

19.12 The Scheme will require alteration and the stopping up of side roads and accesses and the provision of new highway and private means of access (see paragraphs 3.18 to **Error! Reference source not found.** above). These alterations will require a SRO, which must be confirmed by the Secretary of State.

19.13 The SRO will be made under sections 14 and 125 of the Highways Act 1980. The SRO 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), or which may be otherwise affected by the construction or improvement of the road. 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.

19.14 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.

19.15 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.

19.16 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.

Traffic Regulation Order

- 19.17 The Scheme will also require a TRO which will be secured under the Road Traffic Regulation Act 1984.
- 19.18 The TRO will be required to implement the following requirements over various elements of the Scheme:
- (a) Changes to speed limits, including speed reductions in Banwell and the surrounding villages.
 - (b) Weight and width restrictions to replace/relocate the current restrictions on Castle Hill.
 - (c) Prohibition of stopping or waiting or loading (extents to be determined).
 - (d) Creating a rural clearway (although note there is ongoing consideration as to whether this is the best mechanism for enforcement).
 - (e) Prohibition of traffic with an exemption for buses, bicycles at some agricultural traffic turning onto Wolvershill Road southbound.
 - (f) Prohibition of traffic with an exemption for bicycles (this may be required for active travel routes depending upon designation as part of the final design).

7. Climate Change and Environmental Implications

- 20.1 The purpose of this Report is to secure authority to make, confirm and implement the Orders required to assemble land and deliver the Scheme and to authorise the acquisition of land required for the Scheme. Detailed assessment of the climate change and environmental implications of the Scheme will be undertaken by the Council, in its role as local planning authority, in determining the planning application.
- 20.2 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.
- 20.3 As explained above, the Environmental Statement supporting the planning application for the Scheme is being finalised and will be submitted with the application. All of the environmental information will be available as part of the application documents.

- 20.4 For the purposes of this Report, a high level summary of the likely significant effects of the Scheme is provided below:
- (a) Air quality: improvements to air quality in Banwell Village as a result of reduced traffic, and no exceedances to air quality objectives in surrounding villages.
 - (b) Carbon emissions: the construction and operation phases of the Scheme which fall within legislated national carbon budget periods are not expected to have a significant impact on the ability of the UK Government to meet its carbon budgets. The Scheme will also take the aims of JLTP4 into account as part of the formal assessment provided as part of the planning application.
 - (c) Climate change: there will be some risks associated with climate change relating to matters such as increased potential for fires, erosion, changes to the ground and surface water and other weather pattern changes as a result of climate change. Design changes are being considered to mitigate these risks.
 - (d) Landscape and visual impact: some adverse visual impacts on landscape character areas are predicted in the area around the Scheme and in particular the Mendip Hills AONB, although mitigation will be provided. There will also be impacts on visual amenity from public rights of way as a result of the Scheme.
 - (e) Ecology: potential adverse ecological impacts are anticipated to arise resulting from changes to bat habitats associated with the Mendips Bat Special Area of Conservation. There will also be impacts on other species' habitats including but not limited to dormice, reptiles, otters and badgers, although a comprehensive scheme of translocation and mitigation has been devised.
 - (f) Noise: noise impacts are anticipated for certain properties as a result of the changes to the road layout in the area (and during construction), although there will be significant benefits for many receptors associated with traffic redistributing out of Banwell village once the Scheme is operational.
 - (g) Heritage: impacts on heritage assets in the surrounding area due to changes to their setting are anticipated to occur. There will also be some benefits (due to removing traffic from the Banwell Conservation Area) and adverse impacts which will be mitigated where possible.

8. Risk Management

- 21.1 The main risk associated with the authorisation of the CPO relates to the successful delivery of the Scheme. If private agreements cannot be reached with any landowner then the absence of access to compulsory purchase powers could pose a real risk to delivery of the Scheme. If the delivery of this Scheme is delayed then the GDA funding could also be at risk due to the funding milestones. If the GDA funding is put at risk, the viability of the Scheme as a whole will be affected.
- 21.2 The Scheme is required for the Council to deliver on a number of its housing priorities, and so access to compulsory purchase powers for this project is essential in order for the Council unlock residential and employment development land.
- 21.3 The Project Team has prepared and continues to monitor and update a risk register which details potential risks and treatment plans. The key relevant risks to the authorisation of the CPO are outlined in the table below, together with mitigation proposals.

Risk	Explanation	Mitigation
<p>Public inquiry required to consider objections to the CPO/SRO.</p> <p>The likelihood of this risk occurring is HIGH.</p> <p>The likely impact of the risk is LOW because the inquiry has been included in the programme.</p>	<p>Whilst this is a project risk in terms of the potential to increase professional costs and the timescales for confirmation of the CPO, objections and the required public inquiry as a result are expected for CPOs of this nature and the inquiry is part of the proper due process of determining the CPO.</p>	<p>The programme has time allocated for a CPO inquiry.</p> <p>Legal advice has been sought to ensure that the CPO is properly made and the correct powers are incorporated.</p> <p>Landowners are being actively engaged with as the Scheme progresses in an effort to reach agreement and minimise objections.</p>
<p>Design changes are made due to planning requirements after the CPO is published</p>	<p>Design changes made after the CPO is prepared, particularly as a result of the determination of the planning application, risk the</p>	<p>The best mitigation for this risk would be to wait until planning permission has been granted prior to making the CPO. However, this may</p>

<p>resulting in additional land being required.</p> <p>The likelihood of this risk occurring is MEDIUM.</p> <p>The likely impact of the risk occurring is MEDIUM. It could result in the need for a second CPO which would incur cost and potentially programme delay.</p>	<p>need for additional land interests not included in the CPO as made.</p> <p>This could result in the need for a supplemental CPO if the interests cannot be acquired voluntarily, resulting in delay and increased costs.</p>	<p>not be possible due to programme constraints.</p> <p>The CPO will not be made until the planning application has been submitted and an opportunity for statutory consultee comments and public representations has been given, in case design changes are required to accommodate concerns.</p> <p>Extensive consultation has already been undertaken prior to the submission of the planning application, which further mitigates this risk.</p> <p>This report recognises that more than one CPO may be required and therefore any supplemental CPO can be advanced relatively quickly.</p>
<p>Land is identified as being required which is not currently included in the CPO Land due to omission</p> <p>The likelihood of this risk occurring is LOW.</p> <p>The likely impact of the risk occurring is MEDIUM. It could result in some</p>	<p>It is possible that additional land interests will be identified which may need to be acquired for the Scheme but which are not in the CPO when made.</p> <p>This could result in the need for a supplemental CPO if the interests cannot be acquired voluntarily, resulting in delay and increased costs.</p>	<p>Professional advisers have been undertaking extensive land referencing and analysis to minimise this risk.</p> <p>There is the potential to acquire land interests voluntarily if they are not within the CPO.</p> <p>Early consultation with key stakeholders has been undertaken to help ensure that all land interests which are required will be included in the CPO.</p> <p>This report recognises that additional land may be required</p>

<p>additional cost and programme delay.</p>		<p>outside of the ambit of the current CPO Land and that more than one CPO may be required, and therefore any supplemental CPO can be advanced relatively quickly</p>
<p>Costs risk to progressing the CPO in advance of securing planning permission</p> <p>The likelihood of this risk occurring is LOW.</p> <p>The likely impact of the risk occurring is LOW. The costs risk is being managed through the approach taken to promoting the Scheme.</p>	<p>The programme may require the CPO to be made before planning permission is granted.</p> <p>If planning permission is refused and the Scheme does not proceed, this means that any costs incurred preparing the CPO and negotiating with landowners could be wasted.</p>	<p>The abortive costs risk is not significant because the main costs liability associated with CPO is the compensation payable upon implementation. If the planning permission is not granted then the CPO would not be implemented and the compensation liability would not be triggered.</p> <p>Any potential wasted costs would therefore primarily be professional advisers' fees.</p> <p>Where possible, it is also proposed to enter in option agreements with landowners which can be exercised when possession is required.</p>

9. Equality Implications

Have you undertaken an Equality Impact Assessment? Yes

22.1 In order to satisfy the public sector equality duty (“**PSED**”), pursuant to section 149 of the Equality Act 2010 the Council must have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic (as defined in the Act) and persons who do not share it; and

- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

22.2 An Equality Impact Assessment (“**EqIA**”) has been undertaken for the Scheme (**Appendix 9**). As with the environmental impacts, the outcome of this assessment is primarily relevant to the determination of the planning application rather than the land assembly which is the subject of this Report. The EqIA is currently in draft whilst the planning application documents are finalised.

22.3 None of the impacts identified in the EqIA relate to land acquisition. There are therefore no equality implications directly associated with the subject matter of this Report.

22.4 Consultation was undertaken as part of the EqIA process and the responses were used to inform the assessment. A very high level summary of the conclusions of this assessment is outlined below:

- (a) Disabled people: potential adverse impact during construction and operation of the Scheme due to accessibility of essential public infrastructure.
- (b) Women and carers: potential disruption related to changes to the public highway network affecting the school run during construction phase.
- (c) People on a low income: potential impact due to disruption accessing bus stops during the construction phase.
- (d) People in particular age groups: potential disruption related to changes to the public highway network affecting the school journey and potential changes to walkways affecting the elderly and less mobile during the construction phase.

22.5 An action plan is being prepared to address these issues as part of the planning process. The construction phase adverse impacts will become beneficial impacts during the operation phase due to improvements to the local public transport and public rights of way network. No adverse impacts on equality are predicted during the operational phase.

22.6 In order to comply with the PSED the Council must continue to monitor and consider equality issues routinely throughout the implementation of the Scheme. This includes the need to consider the duty in relation to the CPO and SRO processes, such as ensuring that notices are served in a way which is accessible to any protected groups and that any public inquiry is accessible. The EqIA will be review and updated as necessary as the CPO and SRO are progressed.

22.7 A Health Impact Assessment (“**HIA**”) is also being prepared to inform the planning application (**Appendix 10**). The HIA is currently in draft whilst the planning application documents are finalised. It identifies beneficial impacts in the following areas during the operational phase of the Scheme:

- (a) Access to health and social care services.
- (b) Access to open space and nature.
- (c) Neighbourhood amenity.
- (d) Accessibility and active travel.
- (e) Social cohesion and inclusive design.

22.8 It also identifies the following adverse impacts:

- (a) Visual amenity.
- (b) Crime reduction and community safety (resulting only from safety issues due to increased traffic as a result of the Scheme).

22.9 Further information in relation to these issues will be available as part of the planning application.

10. Corporate Implications

23.1 The provision of key enabling infrastructure that the Bypass and associated road and active travel improvements provide widely supports the Corporate Plan objectives and priorities (as explained further in section 2 above); but specifically within the priority of a Thriving and Sustainable Place.

23.2 The Scheme is being progressed at the same time as the Council’s new Local Plan. The Scheme represents an important opportunity to enable housing allocations in the new Local Plan and support development. However, there are also challenges associated with this, including limitations due to state aid and ensuring alignment between the Scheme and the development to be delivered through the Local Plan, which is problematic because of the current lack of certainty as to the exact location of Local Plan development before the plan it is adopted.

11. Options Considered

- 24.1 As explained at paragraphs 3.39 and 3.40, the land assembly for the Scheme is complex and is highly unlikely to proceed without the use of compulsory purchase powers. Negotiations with landowners are proceeding, and wherever possible voluntary agreements will be entered into.
- 24.2 However, reliance on voluntary negotiations presents a risk to the Scheme because:
- (a) It is unlikely that all affected landowners will enter into agreements voluntarily.
 - (b) The GDA requires vacant possession to be secured and construction to be undertaken in accordance with defined dates. If compulsory purchase powers are not utilised, this could result in delays to land assembly which may prevent the Council from being able to draw down funding under the GDA for the construction of the Scheme.
- 24.3 Therefore, the most likely alternative to the use of compulsory purchase powers is that the Scheme will not proceed.
- 24.4 Chapter 3 of the Environment Statement, once finalised, will set out a full summary of the alternatives considered for the Scheme design. The design of the Scheme has been iterative and has taken into account a wide range of considerations and alternative options. It has also responded to the consultation which has been undertaken (see, for example, the summaries of consultation undertaken in section 4 above).
- 24.5 The alternatives considered have resulted in a Scheme that better meets the needs of the public, whilst reducing its environmental impact and improving constructability. The Scheme has also been designed to minimise the impact on affected landowners as far as possible. It will continue to be improved during detailed design.
- 24.6 A long list of options was identified as part of the Options Appraisal Report 2021 (**Appendix 5**). The options appraisal process resulted in Decision 21/22 DP 213, which approved route 2, the alignment that forms the basis of the Scheme.

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Appendices:

Public appendices

- (a) **Appendix 1:** CPO Plan
- (b) **Appendix 2:** Summary of National Planning Policy
- (c) **Appendix 3:** Scheme Plan
- (d) **Appendix 4:** Highway Improvements Consultation Report
- (e) **Appendix 5:** Option Appraisal Report 2021

Exempt appendices

- (f) **Appendix 6:** Fisher German report dated 15 October 2021
- (g) **Appendix 7:** Fisher German report dated 28 January 2022
- (h) **Appendix 8:** Second Consultation Analysis Report (draft)
- (i) **Appendix 9:** Equality Impact Assessment (draft)
- (j) **Appendix 10:** Health Impact Assessment (draft)

Background Papers:

- (a) Previous Council decisions as detailed in the report