

<b>TITLE</b>	<b>The Wokingham Borough Council (Arborfield Cross Relief Road) Compulsory Purchase Order</b>
<b>FOR CONSIDERATION BY</b>	The Executive on 29 <sup>th</sup> March 2018
<b>WARD</b>	Arborfield;
<b>DIRECTOR</b>	Director of Environment - Josie Wragg
<b>LEAD MEMBER</b>	Executive Member for Strategic Highways and Planning- David Lee

**OUTCOME / BENEFITS TO THE COMMUNITY**

Enable the compulsory acquisition of all necessary land and interests to deliver a new relief road, the Arborfield Cross Relief Road (“**ACRR**”) which is a highways project supported by the planning and corporate policies of the Council, necessary to tackle traffic and congestion in the borough and a key part of the Council’s aspirations for sustainable growth in the borough.

Secure the delivery of the ACRR and the consequential benefits to the local community

**RECOMMENDATION**

That the Executive:

- 1) Agrees to resolve that the Council makes a compulsory purchase order ("CPO") for the acquisition of land and interests which are not already owned by the Council and new rights within the area as shown indicatively edged red on the draft plan at Appendix 1 of this report ("the Site") pursuant to sections 239, 240, 246, 250 and 260 of the Highways Act 1980 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 and the Acquisition of Land Act 1981.
  
- 2) Agrees to authorise the Interim Director of Environment, in consultation with the Leader and Executive Member for Strategic Highways and Planning to:
  - (a) continue to take all necessary steps to secure the making, the confirmation and, in accordance with a programme approved by the Executive, the implementation of the CPO including land referencing, serving any requisitions for information, preparing all necessary documentation (including the CPO, the Order Plan and the Statement of Reasons), publication and service of all relative notices, submission of the CPO to the Secretary of State for confirmation, and the presentation of the Council's case at any Public Inquiry; and
  
  - (b) approve terms for the acquisition of legal interests (including rights) by agreement including for the purposes of resolving any objections to the CPO and acquire all interests in the Site either compulsorily or by agreement;

- (c) deal with objections to the CPO including agreeing terms for the withdrawal of objections and where possible or necessary enter into compromise agreements;
- (d) remove from the CPO any plot or interest no longer required to be acquired compulsorily and to amend the interests scheduled in the CPO (if so advised);
- (e) make amendments to the boundaries of the interests to be acquired if necessary;
- (f) make any amendments to the Statement of Reasons annexed at Appendix 2 to the report as are considered necessary prior to its submission to the Secretary of State;
- (g) confirm the CPO if granted the power to do so by the Secretary of State; and
- (h) exercise the compulsory purchase powers authorised by the CPO by way of General Vesting Declaration[s] and/or notice to treat.

## **SUMMARY OF REPORT**

The purpose of this report is to consider the making of a CPO to enable the construction of the ACRR.

The construction of the ACRR is in line with national, regional and local policy and is considered necessary by the Council to address issues of traffic congestion and to support essential emerging developments in the borough.

Planning permission for the construction of the ACRR has now been secured and as such the only impediment to the construction is the need to assemble all necessary land interests. It is therefore appropriate for the Council to now consider use of its compulsory purchase powers.

The Council has previously referred to the in principle use of compulsory purchase powers to support the development of Strategic Development Locations and it has subsequently demonstrated its intent to deliver the ACRR by engaging and negotiating with landowners.

Whilst the Council has had success in negotiating for the necessary land interests it has not however been possible to acquire all necessary land interests by negotiation.

The Council considers that the use of compulsory purchase powers is appropriate and in accordance with national and local policy.

The following two documents are attached to this report:

Draft plan showing the extent of the land proposed to be included in the CPO edged red plan ref no C1922 -100 –planning/RLP/001B.

Draft Statement of Reasons.

## **Background**

The Executive, at its meeting on 30 June 2016, considered the recommendations of the Executive Member for Planning and Regeneration and approved the in-principle use of compulsory purchase powers to acquire land which could not be purchased through agreement to deliver the comprehensive planning development of Strategic Development Locations (“SDLs”).

The recommendation authorised the Service Manager Strategic Property to discuss the acquisition of land for the implementation of the infrastructure necessarily to facilitate the development of the SDLs. However the authorisation was subject to referral back to the Executive for detailed authority setting out inter alia:

- a) details of the appropriate enabling statutory powers of compulsory acquisition;
- b) areas and value of land to be acquired compulsorily;
- c) areas of land over which interests are to be acquired; and
- d) where appropriate indemnity agreements with developers to indemnify the Council against all costs relating to the CPO processes, including inter alia public inquiry costs and acquisition/compensation costs.

Following the Executive decision in June 2016, planning permission (reference 172209) has been granted for the construction on the Site of a 2.3km Arborfield Cross Relief Road (including shared use pathway) linking A327 Reading Road in the north and A327 Eversley Road in the south east and two new roundabout junctions linking the existing road network along the A327, a new staggered priority junction at Swallowfield Road and a new shared-use (non-motorised user) bridge where Arborfield Footpath 17 intersects the proposed relief road.

The Council has carried out a detailed land referencing exercise which has identified the land interests that need to be included in the CPO. A draft CPO map (Appendix 1) is attached to this report and will be further updated and finalised before the making of the CPO.

In addition, significant progress has been made in preparing the CPO documentation, including the Statement of Reasons, attached at Appendix 2.

The Council has worked hard and effectively with existing landowners and with owners and occupiers adjacent to the Site who benefit from rights across the Site. In tandem with the preparation of the CPO, the Council has continued its negotiations in respect of the outstanding third party land interests with a view to concluding acquisition by agreement where possible.

## **The Scheme**

On 19 July 2017 a fully detailed planning application was submitted to the Council (allocated planning permission reference number 172209). The planning application was considered and approved by members at a Committee meeting on 10 January 2018.

The ACRR is a new section of highway approximately 2.3km in length and comprises a single carriageway, approximately 7.3m wide, with a 50mph speed limit. The ACRR extends between the A327 Reading Road in the north and the A327 Eversley Road in

the south. At the northern end of the Scheme the ACRR will connect into the existing road network by way of a new four-arm roundabout, just west of Bridge Farm and approximately 250m to the west of A327 Reading Road/Greensward Lane Priority Junction. From Reading Road the proposed alignment extends south and the ACRR will intersect with Swallowfield Road by way of a staggered priority controlled junction, with priority given to traffic passing along the ACRR. The proposed route continues in a south easterly direction and rises up to pass over the existing ridgeline via a cutting. The ACRR will travel under electricity pylons and then is proposed to connect into Eversley Road by way of a new three-arm roundabout, approximately 180m southwest of the existing A327 Eversley Road/Langley Common Road Roundabout (“the Scheme”).

The Council is satisfied that the Scheme is in accordance with the planning policy context for the Scheme which consists of policy at local, regional and national level and throughout the planning process the Scheme was subject to robust testing. A full analysis of how the Scheme complies with and fulfils the relevant planning policies is set out in the report submitted to the Planning Committee in support of the application and in the Statement of Reasons (Appendix 2).

### Scheme Benefits

The ACRR aims to support and enable the Council’s aspirations for sustainable growth in the borough whilst simultaneously tackling the issues caused by traffic and congestion through the Arborfield area including at key junctions such as Arborfield Cross. The key aims for the Scheme as identified in the planning application documents are as follows:

- to provide an alternate route for traffic that is currently routing along the A327 through the village of Arborfield;
- to provide traffic relief for local residents and improve existing traffic capacity on a key route in the Borough;
- to facilitate the improvement of provisions available for non-motorised users such as pedestrians, cyclists and equestrians in the area of Arborfield Cross;
- to facilitate the delivery of local town plans, such as that for Arborfield Garrison, as envisaged by the Core Strategy; and
- to ensure appropriate mitigation of traffic impacts from the development of Arborfield Garrison and elsewhere in the borough.

In summary, it is considered that the Scheme will deliver the following public benefits:

### Housing delivery

In total, the Council is required to provide at least 13,487 houses with associated mixed use development during the period 2006 to 2026. The Council acknowledges that such development will need to be delivered alongside improvements to infrastructure, including to transport capacity along the A327 and elsewhere. The delivery of much-needed housing as identified in the Council’s Core Strategy would not be deliverable without corresponding improvements to surrounding transport infrastructure. As such

the Scheme will assist in improving both the social and economic well-being of the area by allowing the developments to be implemented as intended.

### Alleviating congestion

Arborfield Cross provides an example of some of the traffic problems in the Arborfield area. On a weekday, around 2,250 vehicles per hour pass through Arborfield Cross roundabout in the morning rush hour and around 2,350 vehicles per hour in the evening. By 2026 it is forecast that rush hour traffic volumes at Arborfield Cross will increase to around 3,200 vehicles per hour during the weekday and, without any mitigation in the transport network, this will result in an increase in overall journey times by 22%. The growth in traffic volumes at rush hour in this area would have a significant impact in terms of congestion, queues and delays and would lead to the use of alternative local routes, such as Greensward Lane, and other rural lanes which are unsuitable for such through traffic.

The Scheme will have a positive effect on improving traffic and congestion in the borough in the Arborfield Cross area and elsewhere. The Scheme can be seen to improve the social and environmental well-being of the area by reducing journey times for motorists, potentially reducing frustration experienced by motorists and any associated high-risk decision-taking.

### Connectivity

The Scheme will help the Council to maintain the Borough's economic competitiveness by improving connectivity in the network and improving access to regional hubs. This will promote and improve the economic well-being of the area.

### Benefits for non-motorised users

The Scheme will provide a key new route for non-motorised users through the provision of the shared path which will run the full length of the ACRR. This has been designed to maintain and improve connectivity for all non-motorised users, provide choice for those individuals and ensure improved amenity on non-motorised users' routes. The pedestrian and cyclist amenity on the ACRR is likely to be rated Good or Excellent with the provision of a high quality off-road shared path, lighting at junctions and crossing facilities (including a Green Bridge). This is likely to improve the connectivity from the west to the south-east and vice versa and give non-motorised users a real choice in routes. For these reasons it can be seen that the Scheme will have a beneficial effect on non-motorised users in terms of their social and environmental well-being.

### Environmental benefits

The Scheme will also contribute to the environmental well-being of the area and wider borough in terms of air quality and noise pollution. As is the case with any road improvement scheme there will be some negative effects on the environment as a result of the construction and operation of the Scheme. However the air quality assessment undertaken as part of the planning application noted reductions in the annual mean nitrogen dioxide concentrations associated with exhaust emissions for some receptors. Further, the Environmental Statement submitted concluded that the Scheme has no

long lasting major negative effects on the environment as a result of mitigation measures (such as landscaping) and design measures.

### Job creation

During the construction phase of the Scheme it is anticipated that an estimated 1,040 jobs per annum will be provided. There are also likely to be indirect jobs associated with the construction works as a result of an increase in spending on goods and services. As a result the Scheme can be seen to have a positive impact on the social and economic well-being of the area.

### **The CPO**

The Council has sought for some time to assemble land ownership of the Site from the current landowners.

The Council has entered into negotiations with all relevant parties in respect of the acquisition of the necessary land and rights and has reached agreement with two landowners, out of the three land interests required. Both these transactions are now in solicitor's hands for legal formalities to be concluded, although one of these transactions may potentially be further complicated by the potential involvement of an additional party.

The Council is committed to deal with any issues which arise so that both these voluntary agreements lead to the successful acquisition of the land and will continue to negotiate to acquire the land with the remaining landowner, in tandem with the compulsory purchase process but considers that the inability to acquire all necessary land interests by agreement is likely to delay construction of the Scheme. As such, the compulsory purchase process must also be pursued in order to minimise delays to the Scheme as a result of protracted and ultimately unsuccessful negotiations with the remaining landowner.

Having regard to the advice of the Department for Communities and Local Government published in October 2015 and entitled "*Guidance on Compulsory purchase process and The Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion*" (the "DCLG Guidance") the Council considers it appropriate to make a CPO to acquire any outstanding land interests.

If the Executive endorses the recommendation set out in this report then the Council proposes to:

- Make the CPO to acquire all necessary land interests within the Site.
- In parallel, continue to seek to acquire all necessary land interests by agreement.

## Analysis of Issues

### Use of Compulsory Purchase Powers

The Council has the power pursuant to the Highways Act 1980 (the “1980 Act”), as highway authority for the area within which the ACRR and Order Land is situated, to compulsorily acquire land which is required to construct and improve the highway.

The 1980 Act contains various provisions which empower the Council as highway authority to acquire land:

- Section 239 permits the Council as highway authority to “*acquire land required for the construction of a highway which is to be a highway maintainable at the public expense, other than a trunk road*”;
- Section 240 permits the Council as highway authority to acquire land which is required for, or for use by them in connection with, construction or improvement of the highway;
- Section 245 allows the Council to acquire land, whether situated within or without their area, which in their opinion is required for the provision of any buildings or facilities needed for the purposes of their functions as a highway authority;
- Section 246 allows a highway authority to acquire land “*for the purpose of mitigating any adverse effect which the existence or use of a highway constructed or improved by them, or proposed to be constructed or improved by them, has or will have on the surroundings of the highway*”;
- Section 250 permits the acquisition of rights which already exist over land, as well as the creation of new rights;
- Section 260 allows the highway authority to override restrictive covenants and third party rights where land acquired by agreement is included in a compulsory purchase order; and
- Section 14 enables the highway to make a stopping up order.

The DCLG Guidance provides updated and revised guidance to acquiring authorities in England on the use of CPO powers. Paragraph 1 states:

*“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.”*

Importantly the DCLG Guidance requires that a CPO should only be made where there is a compelling case in the public interest which justifies the overriding of any private rights in the land sought to be acquired. Further, the acquiring authority should have a clear idea of how it intends to use the land which it is proposing to acquire, and show that all of the necessary resources are likely to be available to achieve that end within a reasonable timescale.

The DCLG Guidance requires acquiring authorities to consider the sources of funding available for acquiring the land and implementing the scheme for which the land is required, including the degree to which other bodies (including the private sector) have agreed to make financial contributions or underwrite the scheme. Physical and legal impediments to implementation also need to be considered including the programming of any infrastructure accommodation or remedial works and the need for planning permission.

The DCLG Guidance looks to acquiring authorities to seek to acquire land by agreement wherever practicable. However, it recognises that it may be sensible for acquiring authorities to start formal CPO procedures in parallel with their efforts to acquire by agreement. The DCLG Guidance notes that this has the advantage of making the seriousness of the acquiring authority's intentions clear from the outset which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations. Such negotiations can also help to build good working relationships with those affected and can help to save time at the formal objection stage. The DCLG Guidance requires acquiring authorities to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted where land ownership is known.

In preparing this report the Council has also had regard to the guidance issued by the Department for Transport in Circular 2/97 entitled "*Notes on the Preparation, Drafting and Submission of Compulsory Purchase Orders for Highway Schemes and Car Parks for which the Secretary of State is the Confirming Authority*" (the "**DFT Guidance**"). Paragraph A.i.2 of the DFT Guidance states that, while there is no statutory requirement for planning permission to precede the confirmation of a CPO, the Secretary of State for Transport would always want to be sure that a scheme for which is was authorising the compulsory acquisition of land would go forward as proposed and consequently the practice is not to confirm a CPO unless the Secretary of State is satisfied that the planning permission aspect of the Scheme has been granted.

Notice of the making of the order is given to categories of "qualifying persons", namely owners, lessees and occupiers (other than monthly or shorter tenants) and publicised in the local newspaper. Objections from such persons may lead to a public inquiry.

#### Land Proposed for Compulsory Acquisition

The land required for the construction of the ACRR on the Site and proposed for compulsory acquisition is indicatively identified edged red on the draft plan at Appendix 1 of this report. It comprises of the following land interests on the plan which collectively are in the ownership of three parties:

- Land at Rounds Copse and land on the west site of Bridge Farm, Reading Road, Arborfield
- Bridge Farm, Reading Road, Arborfield, Reading (RG2 9HT)
- Land adjoining White Farm, Swallowfield Road, Arborfield (RG2 9JY)
- Land on the south side of Reading Road, Arborfield, Reading
- Bartlett's Farm, Swallowfield Road, Arborfield, Wokingham (RG2 9JX); and
- Land adjoining Ducks Nest Farm, Arborfield



## Case for Compulsory Acquisition

The Council's case for making the CPO is more fully set out in the draft Statement of Reasons at Appendix 2 of this report.

As set out above, the ACRR is an essential piece of infrastructure that is required to deal with congestion and mitigate the impact and effect of planned housing growth on the A327, thereby supporting that development. The purpose of seeking to acquire the Order Land compulsorily is to facilitate and enable the delivery of the Scheme. Compulsorily acquiring the Order Land and bringing it within single ownership would, in the opinion of the Council, ensure that the Council meets its transport, planning and policy objectives and does so within a realistic timescale. The exercise of the compulsory acquisition powers is necessary to mitigate the risk that the Scheme could be delayed.

In line with the DCLG Guidance, the Council has since October 2016 been seeking to assemble land ownership of the Site through negotiation with the various landowners. The Council has taken all reasonable steps to negotiate the purchase of the Order Land and has entered into negotiations with all relevant parties in respect of the acquisition of the necessary land and rights. Those negotiations have been undertaken with some success and the Council is committed to continuing to negotiate to acquire the Order Land in tandem with the compulsory purchase process. These negotiations will continue with a view to minimising delays to the Scheme that may otherwise arise from procedural and statutory timescales to be complied with and resulting from acquisition by compulsory purchase.

However, the Council considers that the compulsory purchase process must also be pursued in order to minimise delays to the Scheme as a result of protracted and ultimately unsuccessful negotiations with landowners. Whilst the Council would prefer to acquire all of the Order Land by way of agreement, the public interest demands confirmation of the Order so that the Council can ensure that the Scheme can take place and that it can achieve its policy objectives. Without invoking compulsory purchase powers there is no certainty that the Council will be able to acquire the necessary interests in time, or at all, in order to allow the Scheme to progress.

As such the Council is satisfied that there is a compelling reason in the public interest for acquiring the necessary interests in the Order Land which outweighs the effect of acquisition on individual rights. In determining whether to proceed with compulsory acquisition, the Executive is reminded that, for those directly affected, there will be interference with convention rights incorporated into law by the Human Rights Act 1998. The Council will take all necessary steps to minimise the effect of such interference so that it is proportionate and necessary for the implementation of any authorised compulsory acquisition. Further consideration of these issues can be found in the Statement of Reasons.

## Timetable for Progress

In the event that the Council proceeds with the making of the CPO, it is envisaged that the CPO will be made in late April/May 2018. Progress thereafter will depend on whether any objections are made to the CPO and the nature and scope of those objections.

If no objections are received to the CPO then the CPO can immediately be confirmed and implemented subject to compliance with statutory requirements.

If objections are received then the Council will work to secure removal of those objections. If the objections cannot be resolved within a reasonable timescale, it is anticipated that the Secretary of State will arrange for a Public Inquiry to be held to consider any outstanding objections. It is envisaged that any Public Inquiry would be arranged for November 2018, with a decision being reached by the Secretary of State in February 2019.

It is currently planned that works will commence in Spring 2019 and that the Scheme will be completed towards the end of 2020.

## FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

***The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.***

	How much will it Cost/ (Save) for the CPO.	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£15,000	Yes	Capital
Next Financial Year (Year 2)	£25,000 - £90,000	Yes	Capital
Following Financial Year (Year 3)	Nil	N/A	N/A

### Other financial information relevant to the Recommendation/Decision

Funding for the land purchase and associated costs is included within the Capital Budget. Costs indicated above are additional costs for a CPO process for additional legal costs involved. The level of costs will be at the low end of the range if no Public Inquiry is required and the high end of the range if a Public Inquiry is required. The difference being the costs of legal Counsel which would be required for a Public Inquiry. Given the small no of parties involved we would hope that a Public Inquiry will not be necessary.

### Cross-Council Implications

Delivery of the Arborfield Cross Relief Road will help to mitigate traffic impacts and congestion associated with the planned housing provision at Arborfield Garrison and South of M4 SDL.

### List of Background Papers

- In Principle Use of Compulsory Purchase Powers report considered by the Executive on 30<sup>th</sup> June 2016

- Report for Application 172209 considered by the Planning Committee on 10 January 2018
- Planning Permission for Application 172209

<b>Contact</b> Bruce Hickman	<b>Service</b> Strategic Property and Commercial Assets
<b>Telephone</b> Tel: 0118 974 6491	<b>Email</b> <a href="mailto:bruce.hickman@wokingham.gov.uk">bruce.hickman@wokingham.gov.uk</a>

This page is intentionally left blank