

**The Birmingham City Council (Dudley Road Winson
Green/Spring Hill Ladywood) (A457 Classified Road)
(Side Roads and other Works) Order 2019**

**The Birmingham City Council (Dudley Road Winson
Green/Spring Hill Ladywood) Compulsory Purchase
Order 2019**

**STATEMENT OF CASE OF BIRMINGHAM CITY COUNCIL IN
ACCORDANCE WITH RULE 7 OF THE COMPULSORY PURCHASE
(INQUIRIES PROCEDURE) RULES 2007 AND THE HIGHWAYS
(INQUIRIES PROCEDURE) RULES 1994**

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1. Purpose of this Statement

- 1.1 This Statement is made in accordance with Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007 and the Highways (inquiries Procedure) Rules 1994.
- 1.2 This Statement also describes the highway to be improved, stopped up, routes of new highway and the stopping up of private means of access which are included in the Birmingham City Council (Dudley Road Winson Green/Spring Hill Ladywood) (A457 Classified Road) (Side Roads and Other Works) Order 2019, and explains why the Council has made the Order.
- 1.3 It describes the land which is included in the Birmingham City Council (Dudley Road Winson Green/Spring Hill Ladywood) Compulsory Purchase Order 2019 and explains why Birmingham City Council (the Council) has made the Order and responds to objections to the Order.

2. The Acquiring Authority

- 2.1 The acquiring authority is Birmingham City Council.

3. The Compulsory Purchase Order and Side Roads Order

- 3.1 The Birmingham City Council (Dudley Road Winson Green / Spring Hill Ladywood) (A457 Classified Road) (Side Roads and other Works) Order 2019, (BCC1) Order was made on the 25 September 2019 under Sections 14 and 125 of the Highways Act 1980. The purpose of the Order is to secure the necessary changes to the highway and private means of access to enable the implementation of highway and junction improvements at Dudley Road Winson Green and Spring Hill Ladywood, Birmingham.
- 3.2 The Birmingham City Council (Dudley Road Winson Green / Spring Hill Ladywood) Compulsory Purchase Order 2019 BCC5 was made on the 7th November 2019 under sections 239 and 240 of the Highways Act 1980. The purpose of the Order is to facilitate the acquisition of land to enable the implementation of highway and junction improvements in the Soho & Jewellery Quarter, Ladywood, and North Edgbaston wards to the west of Birmingham city centre.
- 3.3 The highway improvements are necessary to address long term traffic congestion and poor access and are important in advancing the economic growth potential of the A457 Dudley Road corridor and surrounding area as set out in BCC8. There are currently 7 Relevant Objections and 2 other objections to the Compulsory Purchase Order, at the date of this Statement of Case.
- 3.4 The proposed scheme (BCC2) supports the delivery of the Birmingham Development Plan (BCC10) and is supported by the Greater Birmingham

and Solihull Local Enterprise Partnership (GBSLEP) through allocation of Local Growth Fund. The highway scheme and case for the Orders is explained more fully in Sections 5 to 7.

4. Location and Description of the Order Lands

- 4.1 The highway scheme for which this Order is made is located on the A457 Dudley Road, in the Soho & Jewellery Quarter, Ladywood, and North Edgbaston wards to the west of Birmingham city centre. The A457 Dudley Road corridor is approximately 2km long and runs from Ladywood Middleway/Spring Hill junction on the city's inner ring road (A4540) to Cape Hill near the boundary with Sandwell Metropolitan Borough Council. The corridor is used by both local and through traffic and requires highway improvements to address the significant highway congestion along key routes and bus interchanges which are congested at peak times, the health issues related to harmful air pollutants, casualties from road traffic collision and social exclusion from poor accessibility to jobs and education opportunities. All of these factors constrain growth in the area. The scheme will provide enhanced accessibility for businesses and developments along the route and in the wider area.
- 4.2 The area within which the Order land sits includes a wide mix of residential, retail, community and industrial uses. A Tesco Superstore is located to the east of the route alongside a number of other businesses including Enterprise Rent a Car. The City Hospital is situated along the route and the western end of the route leads into Dudley Road local centre – an important centre that contains a range of shops, services and community facilities all of which provide local employment opportunities within the area.
- 4.3 The scheme will complement and support the City's growth objectives within the Greater Icknield Area. These are set out in the adopted Birmingham Development Plan (BCC10) (Policy GA2 Greater Icknield) and the Greater Icknield Masterplan (BCC11) and detailed at paragraph 8.5 of this Statement.
- 4.4 The scheme also supports development in the Smethwick area of Sandwell including housing schemes at Grove Lane, Windmill Eye, and Brindley Canalside. Furthermore, upon the completion of the Midland Metropolitan Hospital in Sandwell, the majority of the former City Hospital Site will be used for residential development and bring forward local facilities and further employment opportunities within the area.
- 4.5 Running through the area are the Birmingham Old and New Canal Lines, which are important leisure and wildlife corridors, as well as the main Birmingham to Wolverhampton rail line. All these corridors pass at lower levels below Dudley Road.
- 4.6 The Order lands are identified on the Order plan and detailed in the accompanying schedule. In summary the Order land comprises:

- Garage, retail and residential premises at 201 Dudley Road
- retail premises at 195 - 197 Dudley Road
- the former Dudley Road police station premises 210 Dudley Road
- garage premises at 192 and 193 Icknield Port Road
- various plots including waste land, grass verge, passageway and highway land
- advertisement hoardings along the route of the highway improvements
- part hardstanding, part car park and part access at hospital premises known as City Hospital Dudley Road
- land fronting and adjoining the premises known as the Old Windmill PH 84 Dudley Road
- land fronting the proposed Soho Loop development at the junction of Dudley Road and Hooper Street
- land at the junction of Spring Hill fronting 42-52 College Street
- landscaping fronting commercial premises known as Spring Hill Industrial Estate and Forward Works
- landscaping fronting premises known as Enterprise Rent a Car Spring Hill
- paving/hardstanding area fronting Spring Hill and adjacent to the Tesco retail premises

5. **The Proposed Scheme**

5.1 The A457 Dudley Road corridor runs west to east through west Birmingham. The corridor is approximately 2km long from Ladywood Middleway / Spring Hill junction on the Ring Road to Cape Hill near the boundary with Sandwell Metropolitan Borough Council. The A457 forms part of Birmingham's Strategic Highway Network and provides a key arterial route from the Black Country into Central Birmingham. The purpose of the proposed scheme is to remove constraints to economic growth by:

- Improving accessibility to the city centre, New Street Gateway and HS2 by reducing congestion and providing public transport priority.
- Improve journey time reliability by reducing congestion along this key strategic route.
- Improving accessibility to Icknield Port Loop development which is seeking to build 1,400 homes, with supporting business, leisure and community uses at a waterside location (BCC11). In addition, there are

a number of derelict industrial areas along this corridor which the scheme will help to open up to investment.

- Improving local population access to key employers in this area; including access to Birmingham City hospital and the Midland Metropolitan Hospital currently under construction.
- Increasing highway capacity.
- Reducing the high levels of congestion and traffic queues which impact air quality.
- Improving and encourage safe, secure and convenient access to and through the area for cyclists and pedestrian
- Improving environmental quality and reduced congestion within Dudley Road Local Centre making the centre more attractive to the market and supporting the centres role as a focus for existing and future communities.

5.2 The section of the Dudley Road corridor which is the focus for improvement is approximately 1.3km in length from the Spring Hill junction to the Winson Green Road junction. The works to deliver the scheme comprise:

- Widening of the A457 to a dual carriageway from a point 142 metres west of the junction of Dudley Road and Icknield Port Road, to a point on Spring Hill 143 metres east of the junction of Ellen Street.
- Increasing capacity at existing signalised junctions (Winson Green Road / Dudley Road and Western Road / Dudley Road).
- New signalised junction (Heath Street / Dudley Road).
- Upgrading pedestrian crossings at all signalised junctions.
- Cycle and pedestrian facilities on wide footways along the entire route length - this will primarily be in the form of a segregated cycling route on the northern side of the corridor and shared facilities where highway space is restricted.
- Toucan crossing facilities to accommodate cycling measures and create a link to the south side of the A457 corridor.
- Realignment of junctions to facilitate the interventions above.

5.3 The scheme cost is £29.464m including, works, statutory undertakers, land, fees and contingency provision. Through the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP), provisional approval to the outline business case was granted by the Department of Transport (DfT) as part of the GBSLEP local Growth Fund (LGF) programme of transport and connectivity projects in July 2014 with an allocation of

£22.411m Local Growth Fund (LGF). Further details of the funding are provided at paragraph 9 of this statement.

- 5.4 On 20th October 2015 a Cabinet Report was approved that enabled the City Council to act as the Accountable Body on behalf of the GBSLEP for £2.2m capital grant from the Department for Transport (DfT). It also gave approval for the Council to accept the offer of funding of £0.5m from the DfT for preparatory work and the development of the Major Scheme Business Case (to DfT).
- 5.5 On 26 June 2018 the Cabinet of the City Council approved a report of the Corporate Director Economy titled Dudley Road Improvement Project Definition Document (BCC 15). The report obtained approval for the Project Definition Document for the scheme and the preferred option for the Dudley Road improvement scheme and the progression of detailed designs, consultation and preparation of the Full Business Case. Cabinet also approved the submission of a funding bid to the Department of Transport's Major Transport Schemes Portfolio, the making of a compulsory purchase order under the Highways Act 1980 as well as approval to the advertisement of open space land in accordance with Section 122 (2A) of the Local Government Act 1972.
- 5.6 As a condition of the DfT funding, a significant local contribution is required and the DfT's provisional approval was based on a local contribution of approximately 25% of the project cost. The DfT contribution is currently capped at £22.411m leaving a balance of £7.053m for the Council to fund. £7,044 will come from Prudential Borrowing and £0.009m will come from Block Integrated Transport Block (ITB) allocation.
- 5.7 The DfT will give final formal approval and release funds when i) the Council has secured full business case approval, ii) the Order has been confirmed iii) and the Council has tendered a contract for the works to obtain a final contract target price. The anticipated date for the DfT approval is summer 2020.
- 5.8 The construction works are currently programmed to commence on site in October 2020 with a 15-month contract period.

6. Purpose of Acquisition and Changes to the Highway and Private Means of Access

- 6.1 To enable the implementation of the approved and funded Dudley Road Improvement Scheme and development of residual frontage land.
 - I. The compulsory purchase order will allow the acquisition of all necessary outstanding interests.

- II. The side roads order will allow the necessary changes to the highway network and private means of access.

7. The Case for the Compulsory Purchase Order and Side Roads Order

- 7.1 Dudley Road is a four-lane single carriageway consisting of substandard lane widths and does not meet the requirements of the guidelines set out in the Design Manual for Roads and Bridges. The poor standard and inefficient operation of this section of the Dudley Road for most of the day together with associated environmental deterioration resulting in reduced air quality and poor accessibility for users emphasises the corridor as an unattractive route to and from the City.
- 7.2 The Dudley Road corridor also forms a part of the Strategic Highway Network and is classified as an arterial route. As a result it attracts a high volume of traffic. It also forms one of the emergency routes to medical facilities and it is a diversion route for the motorway network acting as a relief should there be an incident on the M5 or M6. Delays as a result of congestion significantly add to business costs and discourage businesses from investing and locating in this area, as well as adversely impacting on access to employment opportunities for local residents. The existing sub-standard 4 lane single carriageway does not operate efficiently, as right turning traffic and parked vehicles, often stopping the flow of straight-ahead traffic due to the narrow lane. The proposals include implementing junction improvements with intelligent traffic signal control, widening the highway at pinch-points and implementing parking/waiting restrictions to allow better through traffic flow along the corridor. This will not only alleviate existing congestion but will ensure the highway infrastructure can cope with the extra trips generated by additional housing proposed in the area. Together with the proposed cycle infrastructure will also improve multi-modal access to housing sites.
- 7.3 The need for highway improvements has been recognised for a long time and has been set out in local planning policy – both in the Council’s Unitary Development Plan (UDP) (adopted 1993 and revised 2005) and in the Birmingham Development Plan (BDP) which was adopted in 2017 and which supersedes most of the UDP policies. The BDP also recognises the development potential of Dudley Road and the current proposals will complement future developments such as Icknield Port Loop/Soho Loop developments and the New Midlands Metropolitan Hospital.
- 7.4 The anticipated benefits to the area include:
 - a) Increased highway capacity

The widening of the route to dual carriageway standard and increased provision of traffic capacity at major junctions along the A457 Dudley Road route which forms an important part of the city's Strategic Highway Network

These improvements will help to mitigate the impact on the road network from future housing and employment development in the area.

b) Improved access to employment and commercial areas

To provide improved access to a number of large employment sites such as the Tesco Superstore, Birmingham HM Prison, the City Hospital, Dudley Road local centre, the city centre, as well as a wide range of other businesses across this part of the city.

c) Improved access to regeneration areas

To provide improved access to areas targeted for regeneration outlined in the BDP such as the City Hospital, Greater Icknield, and Icknield Port Loop/Soho Loop Development Sites.

d) Improved air quality

Air quality is expected to improve due to the reduced vehicle delays at junctions and as road users turn to alternative travel choices. Air quality monitoring is ongoing and any recommendations or issues arising from the assessment will be considered as part of the design development. In respect of the impact on existing trees, the intention is that wherever possible high and good quality trees will be retained.

A tree survey was carried out in January 2019; all trees on site and around application boundary were surveyed from ground level. The tree survey and assessment resulted in the BS5837 quality/retention categories of `A - good`, `B - moderate` and `C – low`. There is only one mature London Plane Tree (situated at the junction of Aberdeen Street and Dudley Road) which is categorised as class `A` tree. The remaining trees in the within the scheme extents categorised as class `B` or `C`.

The removal of moderate or low-quality trees may have an impact on the green cover in the first instance; however, the scheme presents a significant enhancement opportunity. The overall proposals would have no impact on the long-term amenity of the area and will allow for the selection of native species to enhance amenity and biodiversity, and ultimately improve air quality. The scheme also looks to improve the efficiency of public transport and provide the infrastructure to increase the update of cycle use, reducing the dependency of individual car use.

e) Reduce congestion

The increased highway capacity will help reduce congestion by increasing the throughput of traffic. This will increase the attractiveness of the area for investment in new housing, local businesses and jobs.

f) Reduced journey times

Reducing congestion and the provision of bus priority detection measures will improve journey times made by public transport.

g) Improved pedestrian / cycle links

The provision of new shared and segregated cycle footways together with the new toucan crossings will enhance active travel.

h) Improved local centre

The scheme will contribute to the retention of existing business in the Local Centre as well as interest and investment, reduced congestion and improved environmental quality in the centre will help to attract the market and ensure the centre provides the right environment to form a focal point to existing and future commitments`

7.5 The-Ministry of Housing Communities and Local Government (MHC&LG) Guidance on Compulsory Purchase Process and the Crichel Down Rules July 2019 provides advice to acquiring authorities in the preparation and submission of compulsory purchase orders and the matters that the Secretary of State can be expected to take into consideration when reaching a decision on whether to confirm an order.

7.6 Paragraph 1 of the guidance sets out that “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”.

7.7 To summarise, a compulsory purchase order should only be made where:

7.7.1 there is a compelling case in the public interest. This statement and the supporting documents provide comprehensive evidence as to the benefits for economic growth to be delivered by the highway and junction improvement scheme. The highway changes help lift the constraints on economic growth and include improvement in terms of highway capacity, reduction in congestion, improving journey times for all vehicles including key public transport bus routes, improving pedestrian and cycle facilities and permeability, providing improved accessibility to key employment areas as well as to areas targeted for

regeneration, development sites and local centres. Together these factors will enhance the local economy. The Council considers all these factors demonstrate a compelling case in the public interest. Paragraph 7.1 above sets out more detail regarding the benefits of the scheme.

- 7.7.2 the Council is sure that the purposes for which the Order is made justify interfering with the human rights of those with an interest in the land affected. The Secretary of State confirming the order will take a balanced view between the intentions of the Council, the concerns of those with an interest in the land affected and the wider public interest. The Council considers that after reviewing and balancing these various interests, the Secretary of State can conclude that use of compulsory purchase powers in this case is justified.
- 7.7.3 the Council has a clear idea of how it intends to use the land which it is proposing to acquire – for this Order there is a specific scheme (approved by BCC Cabinet on 14th May 2019 for the highway improvements see documents BCC 15 and BCC 16
- 7.7.4 the Council can show that the scheme is unlikely to be blocked by any impediments to implementation. Other orders such as the Side Roads Order or other consents necessary for the scheme are being sought alongside this Order to ensure they are confirmed at the same time and meet this requirement of the guidance. Planning consent is deemed granted under the provisions of Schedule 2 Part 9 of the Town and Country Planning (General Permitted Development) (England) Order 2015. Funding is in place subject to final DfT approval. All that is now required is the confirmation of the Order and Side Roads Order after which the Council will be in a position to deliver the junction improvement scheme.
- 7.7.5 Compulsory purchase as a last resort The Council has engaged with those landowners affected by the scheme and is making good progress in respect of agreeing terms for acquisition. Acquisition of all the land required however has not yet been completed and the Order will enable further progress to be made should terms not be agreed. MHCLG Guidance recognises that compulsory purchase may progress alongside negotiation.
- 7.8 It should also be noted that the land assembly proposed is within a clear strategic policy framework. The context for the highway improvement and the order is provided by the Birmingham Development Plan and the Greater Icknield Masterplan. Additional context is provided by Movement for Growth – the West Midlands Strategic Transport Plan and the West Midlands Local Transport Plan 2011-2026. The purpose for which the land is being acquired fits with the adopted planning framework.
- 7.9 The scheme has the necessary City Council approvals, has been subject to significant consultation and has conditional funding agreed. There are not considered to be any impediments to implementation save for the

confirmation of the Order and as such the scheme has a reasonable prospect of proceeding.

- 7.10 Alternative means to achieve the scheme have been considered. A number of alternative options were considered through the Project Definition Document which was agreed at Cabinet in June 2018, when the initial authority for the making of the Order was given. This included the review of the original highway proposals and five further alternatives ranging from do minimum to a range of options comprising works that could deliver either shared or segregated cycling facilities.
- 7.11 It should also be noted that the scheme requires less land than is currently protected by highway improvement lines.
- 7.12 The Council has considerable experience of successfully delivering highway schemes requiring compulsory purchase orders, including: removal of the Masshouse Circus Gyratory, Selly Oak New Road, Northfield Relief Road, and Iron Lane/Flaxley Road/Station Road Stechford Junction Improvement.

8. Planning Matters

8.1 Planning Permission

8.1.1 The Council does not consider that an express grant of planning permission is required for the scheme as it amounts to permitted development under Schedule 2 Part 9 Class A of the Town and Country Planning (General Permitted Development) (England) Order. Class A defines permitted development as the carrying out by a highway authority:

- (a) on land within the boundaries of a road, of any works required for the maintenance or improvement of the road, where such works involve development by virtue of section 55(2)(b) of the Town & Country Planning Act 1990; or
- (b) on land outside but adjoining the boundary of an existing highway of works required for or incidental to the maintenance or improvement of the highway.

8.1.2 However, as the length of highway within the improvement scheme is over 1hectare - see Town and Country Planning (Environmental Impact Assessment) Regulations 2017 Schedule 2 paragraph 10(f) - for the avoidance of doubt, an Environmental Impact Assessment (EIA) scoping has been carried out to consider the environmental effects of the proposal and a screening opinion has been sought. The EIA screening opinion confirms that the proposed development does not fall within the categories of development in Schedule 1 of the Regulations for which an EIA is mandatory.

8.1.3 The proposed development would result in a visual change to the appearance of the site, its immediate environment and short-term congestion and disruption. However, in the long term, the

proposed highway would support local infrastructure provision, enhance pedestrian and cycle connectivity, improve linkages within the city and provide safer infrastructure for all road users. Therefore, the proposed scheme will not require an EIA under Schedule 2 of the Regulations.

8.2 Policy Context

8.2.1 The following sections summarise relevant planning and related policies at the national and local level. In particular it sets out how the proposals for the scheme are in accordance with policies both at the national and local level.

8.2.2 The proposals are also consistent with other local initiatives such as the Birmingham Cycle Revolution, Birmingham Connected, West Midlands Strategic Transport Plan and the objectives of the GBSLEP, Strategy for Growth and Strategic Economic Plan. Crucially, part funding for the proposals has been secured from the GBSLEP through the Local Growth Fund.

8.3 The National Planning Policy Framework BCC9

8.3.1 Development proposals accord with national guidance in the National Planning Policy Framework (NPPF) (Revised 2019).

8.3.2 Section 2 of the Framework confirms the purpose of the planning system is to contribute to the achievement of sustainable development (paragraph 7).

8.3.3 Paragraph 8 sets out the three overarching and interrelated economic, social and environmental objectives of the planning system. The economic role includes ensuring that sufficient land of the right types is available and identifying and coordinating the provision of infrastructure.

8.3.4 Section 5 of the Framework deals with delivering a sufficient supply of homes and paragraph 59 sets out it is important that a sufficient amount and variety of land can come forward where it is needed.

8.3.5 The Council's highway proposals will help unlock residential development sites that have been identified through both the Birmingham Development Plan and the Council's Strategic Housing Land Availability Assessment (SHLAA).

8.3.6 Section 6 of the Framework deals with building a strong, competitive economy and paragraph 80 sets out that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Paragraph 83 goes on to outline that policies should c) seek to address potential barriers to investment such as inadequate infrastructure, services or housing, or a poor environment.

8.3.7 Section 8 of the Framework relates to promoting healthy and safe communities. Paragraph 91 a) refers to street layouts that allow for

easy pedestrian and cycle connections within and between neighbourhoods and active street frontages.

8.3.8 Section 9 of the Framework covers promoting sustainable transport and paragraph 102 sets out that transport issues should be considered from the earliest stages of plan making and development proposals. In particular c) outlines that opportunities to promote walking, cycling and public transport use are identified and pursued. Paragraph 103 outlines that significant development should be focussed on locations which are or can be made sustainable.

8.3.9 Section 11 of the Framework deals with making effective use of land. Paragraph 117 outlines that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Reference is also made to using suitable brown field land for houses and other identified needs and promoting and supporting development of under-utilised land and buildings.

8.4 **The Birmingham Plan 2031(BDP) BCC10**

8.4.1 The Council's BDP was adopted on 10 January 2017. It has been subject to significant public consultation, examination in public, Inspectors report and modifications. It supersedes the majority of the original Unitary Development Plan (UDP). A number of design policies and city-wide policies within the UDP have, however, been retained pending the completion and adoption of the Planning Management Development Planning Document.

8.4.2 The former UDP contained a number of policies regarding the definition and safeguarding of the Strategic Highway Network and the identification of Dudley Road as a major link between the Black Country and the city centre and its improvement.

8.4.3 The BDP provides the key part of the Council's statutory planning framework guiding decisions on all development and regeneration activity in the city over the period to 2031. It responds to the projected increase in population of 156,000 over the period and supports the development of homes and jobs to cater for this rise as well as all the necessary infrastructure and services that will be required.

8.4.4 The BDP recognises the important role that transportation and improved connectivity plays in both helping Birmingham deliver its growth agenda and attract investment. Paragraph 3.37 recognises that:

“The provision of high-quality infrastructure will underpin the successful delivery of growth that is sustainable and long term.”

8.4.5 Section 4 of the BDP deals with Planning for Growth and sets out the overall levels of growth proposed in the city. Policy PG1 refers to the delivery of 51,000 additional homes, Regional Investment Sites, the

levels of land to be made available for employment use, as well as retail and office floor space targets.

- 8.4.6 Policy PG 3 deals with Place making and sets out how new development will be expected to demonstrate high design quality and contribute to a sense of place. The various measures set out in this policy include providing attractive environments that encourage people to move around by cycling and walking. Other matters include ensuring private external spaces, streets and public spaces are attractive, functional, inclusive and able to be managed for the long term, and the creation of sustainable neighbourhoods. This policy will guide the emerging proposals on the route that will contribute to the city's growth agenda.
- 8.4.7 Section 5 of the plan sets out proposals for the spatial delivery of growth across the city and how this will require focussing significant development into a number of locations which currently play an important role in providing homes, jobs and supporting facilities. A number of key locations are identified as Growth Areas including Greater Ickniel which forms policy GA2 – an area which is bounded by City Road, Winson Green Road, Pitsford Street, Ickniel Street and including part of the City Centre and City Hospital which is proposed to accommodate the delivery of 3,000 new homes. As part of the development local facilities and employment opportunities will be brought forward to support the delivery of a sustainable neighbourhood. The road improvement proposals are referred to within policy GA2 and therefore are a key element in reducing congestion and delivering growth as set out in the BDP.
- 8.4.8 Policy GA2 refers to a range of measures that will assist implementation of the policy including local and national funding, partnership working, the use of compulsory purchase powers and the role of local plans and regeneration frameworks.
- 8.4.9 The BDP sets out clearly the need for proactive and positive approach towards reducing the City's carbon footprint (TP1). This includes the promotion of sustainable transport systems including cycling and walking. The policy also makes references to the use of trees for carbon uptake. A clear aim of this policy is to tackle the causes of climate change, including reducing CO2 emissions. This proposal will therefore support the delivery of this policy by encouraging the use of sustainable modes of transport and reducing congestion.
- 8.4.10 An area of Dudley Road is designated as Dudley Road Local Centre in recognition of the role the centre plays in catering for the local

community. The BDP looks to enhance local centres vitality and viability (TP21) and a key element of this policy is that “proposals will be encouraged that enhance the quality of the environment and improve access”. As this proposal looks to address issues around congestion and access, there is a clear alignment with the aspirations of this policy.

8.4.11 The BDP also recognises that high quality transport connections are vital to the city’s future economic prosperity and social inclusiveness. Section 9 of the BDP deals with connectivity and TP 38 deals with A Sustainable Transport Network. Paragraph 9.2 recognises that:

“Transport is an enabler for economic growth and for the City to successfully deliver its sustainable growth agenda it will need to develop its existing transport networks ensuring that they provide an effective, efficient and comprehensive public transport system, high quality routes and environments for pedestrians and cyclists, an efficient road network and modern digital infrastructure.”

8.4.12 Paragraph 9.5 goes on to state that the Council will seek to ensure that transport initiatives promote:

- Economic sustainability by providing effective and efficient connections between people and jobs, and between businesses and their suppliers and customers.
- Social sustainability by providing a comprehensive and fully accessible transport system which connects and serves all members of Birmingham’s diverse communities.
- Environmental sustainability by supporting the development of a connected city whilst seeking to minimise the negative impacts on the current and future environment.”

The proposal which is the subject of this order accords with all three of these objectives. It both provides better connectivity for businesses and communities in this part of the city; it facilitates the residential, industrial and other development and incorporates an enhanced environment for both cyclists and pedestrians.

8.4.13 TP 39 deals with walking and promotes the provision of safe and pleasant walking environments throughout Birmingham. Particular reference is made to improving pedestrian safety and providing crossing facilities where appropriate and ensuring footway surfaces are well maintained.

8.4.14 TP 40 deals with cycling and sets out that. “Cycling will be encouraged through a comprehensive city-wide programme of cycling infrastructure improvements (both routes and trip end facilities) supported by a programme of cycling promotion, accessible cycling opportunities, training and travel behavioural change initiatives.”

The proposal incorporates cycling provision with dedicated or shared cycle lanes throughout the scheme.

8.4.15 The BDP also recognises the importance of public transport and policy TP 41 deals with various aspects of improving public transport facilities and infrastructure. This includes working to ensure road space is managed efficiently to support public transport through initiatives such as bus priority and infrastructure, and the development and extension of metro/bus rapid transit to facilitate the improvement of the public transport offer on key corridors.

8.4.16 Most important of all, the proposal accords with policy TP 44 on traffic and congestion management which states that:

“The optimum use of existing highway infrastructure across all modes will be encouraged and priority investment in the highway network to support the city’s sustainable transport network and development agenda will be promoted.”

This policy identifies a number of Highway Improvement Lines across the city in order to protect land required for highway and public transport schemes from other developments. Dudley Road is listed as one of the city’s 14 key improvement schemes. The policy goes on to outline that limited elements of the Strategic Highway Network will need upgrading to meet the needs of the Birmingham Development Plan and that Highway Improvement Lines will continue to be reviewed to ensure that they reflect the transport needs of the BDP.

8.4.17 Section 10 of the BDP deals with Implementation and sets out details of the tools available to the Council in being able to deliver the policies and proposals set out in the plan.

8.4.18 Paragraph 10.3 sets out that the City Council will have an important role to play and will make use of all appropriate mechanisms including the use of government grants and European funding, working in partnership with landowners/developers, use of the Council’s compulsory purchase powers to assist with site assembly and the proactive use of the council’s land holdings to assist delivery.

8.4.19 Paragraph 10.24 also refers to the use of compulsory purchase powers and how these are an important tool to help deliver social and economic change. It sets out that the City Council has a strong track record in utilising these powers to support urban regeneration schemes and the delivery of infrastructure and will continue to do so to enable comprehensive schemes that will deliver economic, social and/or environmental benefits.

8.4.20 The BDP’s Policies Map highlights a number of proposals relating to the Dudley Road area. Dudley Road is shown as part of the Strategic Highway Network.

8.4.21 The road is shown as a location of a proposed Highway Improvement Line. The boundary of the City's Growth Areas is indicated – including Greater Icknield.

8.4.22 Major residential development sites along Dudley Road are highlighted. The Dudley Road local centre is shown.

8.5 Greater Icknield Masterplan 2016 BCC11

8.5.1 The Greater Icknield Masterplan was adopted by the City Council in February 2016. Its main proposals are reflected in policy GA2 of the BDP as outlined above.

8.5.2 The Masterplan sets out detailed proposals for the area to deliver transformational change in what is recognised as a significant area of north-west Birmingham in close proximity to the city centre. It sets out over 60 ha of new development opportunities, with potential for approximately 3000 new homes and 1000 new jobs, making this one of the largest brownfield housing-led redevelopment proposal within the city. A range of key development principles have been identified and broad development guidance is provided for six areas. A number of these are accessed off Dudley Road including Area 2 'City Hospital' (11.7 ha) and Area 3 'Spring Hill' (3.9ha) – both of which are residential development opportunities – and Area 6 'Western Road and Spring Hill' (sites totalling 10.4ha) which offers potential for employment regeneration within an improved urban environment. Reference is made in the Masterplan to the proposed road widening and improvement scheme which this Order will facilitate.

8.5.3 A number of development schemes are being brought forward in accordance with the Masterplan. Significant residential development is on site at Port Loop, which will deliver 1,400 homes. An application for 770 homes on the Soho Loop site has been submitted. An outline application has been submitted for the development of part of the City Hospital site for up to 700 dwellings with some ground floor commercial uses.

8.5.4 There are a number of windfall sites which will come forward in the area for residential or commercial development in line with the Masterplan. The capacity and viability of these sites will be enhanced by the CPO scheme.

8.6 The Birmingham Connected White Paper BCC 13

8.6.1 The BDP sets out the Council's strategy for jobs and growth, meeting housing needs and sustainability. The Birmingham Connected "Moving our City Forward Birmingham Mobility Action Plan White Paper" 2014 is directly linked to the strategies and policies of the BDP. It sets out the agenda for investing in a radically improved integrated transport system that will realise the city's potential to support sustainable economic growth, job creation and linking communities. Its vision is to create a transport system which puts the user first and delivers the connectivity

that people and businesses require. In particular people's daily lives will be improved by making travel more accessible, more reliable, safer and healthier and using investment in transport as a catalyst to improve the fabric of the city. In this way the transport system will be used as a way of reducing inequalities across the city by providing better access to jobs, training, healthcare and education as well as removing barriers to mobility.

8.6.2 The Birmingham Connected White Paper sets out the following five guiding principles for transportation in the city.

- **Efficient Birmingham** – Birmingham Connected will facilitate the city's growth agenda in the most efficient and sustainable way possible, strengthening its economy and boosting jobs.
- **Equitable Birmingham** – Birmingham Connected will facilitate a more equitable transport system; linking communities together and improving access to jobs and services.
- **Sustainable Birmingham** – Birmingham Connected will specifically reduce the impacts of air and noise pollution, greenhouse gas emissions and energy consumption.
- **Healthy Birmingham** – Birmingham Connected will contribute to a general rising of health standards across the city through the promotion of walking and cycling and the reduction of air pollution.
- **Attractive Birmingham** – Birmingham Connected will contribute to enhancing the attractiveness and quality of the urban environment in local centres, key transport corridors and the city centre.

The proposal will contribute either directly or indirectly to all these objectives but particularly by helping to facilitate the city's growth agenda within Greater Icknield.

8.6.3 The Birmingham Connected White Paper also sets out the vision for Active Travel which will include the establishment of walking and cycling as default modes of travel across the city. People will choose these active modes because they will be safe, fast, healthy and affordable. The scheme has been developed and designed to help promote these active travel modes.

8.6.4 In particular the scheme has been designed to promote cycling and dedicated or shared cycle lanes are provided throughout the scheme which connect into the wider cycling network across the city. The proposal will therefore contribute to Birmingham Connected objective that cycling will become a mainstream form of transport over the next 20 years including the target for 5% of all trips in the city to be made by bike by 2023 and to double this again to 10% by 2033.

8.7 Birmingham's Green Agenda

- 8.7.1 The Council has an ambitious agenda to become a leading green city and reduce carbon dioxide emissions by 60% by 2027. A number of priorities have been identified to achieve this target as set out in 'The Green Commission Report' (2013). These include investment in combined heat and power schemes, energy efficiency in buildings and creating local renewable energy and sustainable travel systems.
- 8.7.2 Although the proposal is for a highway and junction improvements, it does have benefits for the local environment and has been designed with the principles of sustainability in mind. It will help to tackle traffic flow and congestion on the local and wider highway network. The design of the scheme also incorporates measures to promote sustainable transport including benefits for bus services and facilities for both cyclists and pedestrians, together with the proposal to implement a landscaping strategy by providing replacement trees and planting and bringing uplift to identified areas.
- 8.7.3 Air quality is expected to improve due to the reduced vehicle delays at junctions and as road users turn to alternative travel choices. The City Council declared a Climate Emergency in June 2019 and measures that improve air quality are key in delivering the City Councils commitment to tackling climate change.
- 8.7.4 In respect of the impact on existing trees, a landscape strategy has been produced and wherever possible high and good quality trees will be retained. The removal of low-quality trees or vegetation may have an impact on the green cover in the first instance, however, the scheme presents a significant enhancement opportunity. The overall proposals would have no impact on the long-term amenity of the area and will allow for the selection of native species to enhance amenity and biodiversity, and ultimately improve air quality.

8.8 The Birmingham Growth Agenda

- 8.8.1 After a number of decades of decline, the population of Birmingham is increasing, with projections that the population of the city will increase by 156,000 by 2031. This level of growth brings with it increased demands for a whole range of services and facilities, as well as greater demands for jobs and training. Area based regeneration will become increasingly important in providing for a rising population.
- 8.8.2 The BDP BCC10 states at paragraph 4.8 that in order to provide employment for the City's growing population and reduce existing levels of unemployment and worklessness an additional 100,000 jobs need to be created.

8.9 Birmingham Cycle Revolution

- 8.9.1 Birmingham Cycle Revolution Birmingham Cycle Revolution is a 20 year initiative to make cycling an everyday way to travel in Birmingham over the next 20 years with 5% of all trips in the city to be made by bike

by 2023 and to double this again to 10% by 2033. This will help to make the city healthier, greener, safer and less congested.

8.9.2 This initiative will start by improving cycling facilities within a 20-minute cycling time of Birmingham city centre, with 95km of improvements to existing routes and 115km of new cycle routes. It will also:

- Improve cycling conditions on popular routes into the city centre;
- Provide quiet cycling routes and 20mph areas within residential areas;
- Upgrade towpaths on canals;
- Develop new cycling green routes through parks and open spaces;
- Improve local links to cycle routes;
- Provide new secure cycle parking hubs; and
- Develop cycle loan and hire schemes to make it easier for people to get started.

8.9.3 It will be supported by the Big Birmingham Bikes programme of free bikes, cycle training, and activities with employers, schools and communities to encourage cycling and the Birmingham Cycle Rewards app to encourage individuals and the wider community to become involved.

8.9.4 The highway improvements have been designed to promote cycling and dedicated or shared cycle lanes are provided throughout the scheme which connect into the wider cycling network across the city. The proposal will therefore contribute to the objectives of Birmingham Cycle Revolution. A number of significant cycling facilities have been recently completed in the city including the A38 route from the city centre to Selly Oak and the A34 route from the city centre to Perry Barr. Canal towpaths across the city are another source of cycling routes. Adjacent to Dudley Road corridor the Birmingham to Wolverhampton canal route has recently been upgraded and forms part of the National Cycle Network (NCN5)

8.10 **Movement for Growth: The West Midlands Strategic Transport Plan (West Midlands Combined Authority) BCC17**

8.10.1 Movement for growth sets out a number of priorities for investment including making better use of existing road and rail capacity and investment in public transport, cycling and walking. It also deals with the need for behavioural change to ensure greater use of more sustainable modes of travel.

9. **Funding and Delivery**

9.1 A Major Scheme Business Case for the highway proposals was first completed in 2004 and revised in 2009, however the project was deferred

as other major schemes such as the Northfield Relief Road, Selly Oak New Road and Chester Road Improvements were given higher priority.

- 9.2 The scheme cost is £29.464m including, works, statutory undertakers, land, fees and contingency provision. Through the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP), provisional approval to the outline business case was granted by the DfT as part of the GBSLEP local Growth Fund (LGF) programme of transport and connectivity projects in July 2014 with an allocation of £22.411m Local Growth Fund (LGF).
- 9.3 On 20th October 2015 a Cabinet Report was approved that enabled the City Council to act as the Accountable Body on behalf of the GBSLEP for £2.2m capital grant from the Department for Transport (DfT). It also gave approval for the Council to accept the offer of funding of £0.5m from the DfT for preparatory work and the development of the Major Scheme Business Case (to DfT).
- 9.4 On 26 June 2018 the Cabinet of the City Council approved a report of the Corporate Director Economy titled Dudley Road Improvement Project Definition Document BCC15. The report obtained approval for the Project Definition Document for the scheme and the preferred option for the Dudley Road improvement scheme and the progression of detailed designs, consultation and preparation of the Full Business Case. Cabinet also approved the submission of a funding bid to the Department of Transport's Major Transport Schemes Portfolio, the making of a compulsory purchase order under the Highways Act 1980 as well as approval to the advertisement of open space land in accordance with Section 122 (2A) of the Local Government Act 1972.
- 9.5 On 14 May 2019 the Cabinet of the City Council considered and approved a further report of the Director of Inclusive Growth regarding Dudley Road Improvements - Land Requirements BCC16. The report outlined that following further design development work it was identified that small areas of additional land would be required to deliver enhanced cycling provision. The report obtained approval for a revised scheme layout along with a fresh authority to make the necessary compulsory purchase and side road orders.
- 9.6 As a condition of the DfT funding, a significant local contribution is required and the DfT's provisional approval was based on a local contribution of approximately 25% of the project cost. The DfT contribution is currently capped at £22.411m leaving a balance of £7.053m for the Council to fund from Prudential Borrowing £7.044m and Integrated Transport Block (ITB) allocation £0.009m.
- 9.7 The DfT will give final formal approval and release funds when i) the Council has secured full business case approval, ii) the Orders has been confirmed iii) and the Council has tendered a contract for the works to obtain a final contract target price. The anticipated dates for the DfT approval are summer 2020.

9.8 The capital cost of this proposal is £29.464m (including, works, contingency, statutory undertakers, land costs and fees). The project is jointly funded by DfT a total of £22.411m and the City, a total of £7.044m via Prudential Borrowing and Integrated Transport Block (ITB) allocation of £0.009m. The following table summarises the funding sources and spend profile:

FUNDING PROFILE		16/17	17/18	18/19	19/20	20/21	21/22	later years	Total
		£000s							
May 2017 PDD	DFT/LGF £22.4m		300	3,150	6,341	12,620			22,411
	PRU Borrowing £7.04m						7,044		7,044
	ITB £0.009m					9			9
Total			300	3,150	6,341	12,629	7,044		29,464
Current Spend Profile	DFT/LGF PREP £0.56m	200	64	236	60				560
	DFT/LGF £21.851m					13,654	8,197		21,851
	PRU Borrowing £7.04m			59	1,020	340	4,125	1,500	7,044
	ITB	9							9
Total		209	64	295	1,080	13,995	12,322	1,500	29,464

9.9 The highway works have been procured as a single contract through the Birmingham City Council Highways and Infrastructure Works Framework. Contractors on Lot 4 (over £0.5m) will be invited to tender under the National Engineering & Construction Contract. It is proposed to engage a Design and Build Contractor with Early Contractor Involvement (ECI), undertaking a value engineering exercise. Approval is already delegated through the PDD to appoint a Contractor to undertake ECI Stage 1 Design Development, Construction Planning and to agree a target cost. The final assessment by a selection panel will make recommendations to the Council based upon the Quality (30%), Social Value (10%), and Financial (60%) submissions. The Contract was awarded to McPhillips (Wellington)Ltd in October 2019 who commenced Stage 1 in November 2019.

9.10 The Council has appointed a Contractor to deliver and support the Council and associated Agents to; improve team working, innovation & planning and deliver value for money. The approach of Design and Build is well suited to large & complex schemes as it allows for an integrated team to gain a good understanding of the requirement, develop innovative solutions, plan & mobilise resources, manage risks to accelerate delivery and reduce costs. For this scheme there will be 2 Key Stages to the process:

- Stage 1 – Design development and construction planning, aimed at meeting objectives and leading to a notice to proceed. The Contractor Team’s role will be to provide the expertise and take ownership of; developing & optimising the design (including buildability) as aligned to scheme & Employer’s objectives, commence construction planning (including identifying opportunities for off-site manufacturing and supply chain engagement, as appropriate) and developing the post Construction Period works prices.

- Stage 2 – Contractor to take responsibility for and completion of Detailed Design & Construction of the works.
- 9.11 The approval of the contractor to carry out the construction works would follow completion of the land acquisitions either by negotiation or CPO.
- 9.12 The landscaping works will be procured in approximately July 2020 through the Council's Landscape Construction Framework Agreement 2015-2019

10. **Special Considerations**

- 10.1 No part of the Order Lands falls within a Conservation Area nor are there any statutorily listed or locally listed buildings within the Order Lands. There are no tree preservation orders relating to the Order. There are no schedule Ancient Monuments within the Order Lands.
- 10.2 There are however a number of sites along the route of the highway scheme that are listed on the Council's Historic Environment Record. None are affected by the works. These comprise the following:
- Spring Hill Library. Grade II* dating from 1893. Now adjoined by the Tesco Store – no implications arising from the highway scheme.
 - Warstone Moat. Potential site of moat. Area has been extensively redeveloped – no implications for the highway scheme.
 - St Peter's Church – locally listed church and grounds. Very minor land take from Dudley Road frontage which would not affect the setting of the church. Land in BCC ownership.
 - Site of Park Glasshouse – South side of Dudley Road, between canal and Heath Street South. Opened in 1788 by Isaac Hawker and operational to 1899 and since demolished. Frontage wall dates from later industrial use. An initial evaluation by developer has shown remains of the glass works are present within the site. Further archaeological investigations, excavation, analysis and recording to take place as part of development of the site.
 - Union Workhouse. The workhouse was located on the site of the now City hospital – all buildings have been demolished with the subsequent development of the hospital. The hospital is subject to separate redevelopment proposals and there are no implications arising from the highway scheme.
 - St Patrick's Church. Grade II built between 1876 and 1895 red brick with stone dressings. No implications arising from the highway scheme.
 - Dudley Road back to backs. Site of former back to back houses at 120 to 132 Dudley Road. Properties recorded prior to demolition and no implications arising from the highway scheme.

- Summerfield Community Centre. Grade II*. Built in 1878 for the Birmingham Schools Board. Red brick with terracotta and stone dressings and tiled roof. No implications arising from the highway scheme.

10.3 Homes England (HE) has acquired the Birmingham City Hospital site and are working with the NHS to deliver the relocation to the Metropolitan Hospital and then progress to redevelop the site for housing. Collaborative working between BCC and the HE for scheme proposals are being discussed and agreed. The proposals will provide a new segregated cycleway/footway on the land fronting the HE site which allows the retention of several mature established trees.

10.4 The Council will continue to liaise with a wide range of stakeholders as the scheme is implemented. This will include adjoining landowners, the local community and their elected representatives, as well as utility companies that may have services within the vicinity. The Council will also liaise with Network Rail and the Canal and River Trust regarding the locations where bridges that carry Dudley Road span railways and canals.

11. Views Expressed by Government Departments

11.1 Save for the announcements in connection with funding of the scheme, no views have been made by a government department.

11.2 Collaborative working between BCC and the HE for scheme proposals are being discussed and agreed.

11.3 The DfT continue to support the project and the risk of the project not proceeding are considered low. In December 2018, the DfT announced that the project had received funding to complete legal and procurement processes BCC18.

12. What steps the Council has taken to negotiate for the acquisition of land

12.1 Land referencing has been undertaken and subsequently contact has been made by Birmingham City Council Property Services (BPS) with those owning interests affected by the scheme.

12.2 The following steps have been undertaken to acquire land; letter drops to businesses/owners, including Spring Hill Industrial Estate, Enterprise Rent a Car (ERAC), the Off Licence (D&B Drinkstop Limited) and the Coral Racing Limited. Telephone calls and subsequent emails have been sent to Tesco, ERAC, Midland Heart, Admiral Taverns (owners of the Old Windmill PH) and the Soho Loop Development. Land negotiations with the owner for the premises known as Tara Motors Limited 192 – 193 Icknield Port Road are in progress with the agent, with the intention to acquire the garage premises and the adjacent old Police Station. BPS have made a subject to contract offer to the affected party.

- 12.3 BPS have notified the owners for the premises known as D&B Drinkstop Limited 201 Dudley Road and Coral Racing Limited 197 – 195 Dudley Road, of the proposal for the A457 Dudley Road Improvements Scheme, and Birmingham City Council's intention to acquire the property and sought to open negotiations.
- 12.4 Colleagues in BPS and Highways are progressing dialogue with Admiral Taverns to determine a suitable way forward and we are awaiting further comments from Admiral Taverns of the viability of the proposed solution to service the PH.
- 12.5 Discussions and meetings have taken place with Homes England, and a route for enhanced cycling provision as part of the highway improvement scheme at the front of their site has been agreed with them.

13. Consultation

- 13.1 The proposals for Dudley Road are in accordance with policies set out in key Council documents including the UDP and more recently the BDP and the Greater Icknield Masterplan. Each of these documents has been subject to consultation and subsequent adoption.
- 13.2 A public consultation exercise regarding detailed proposals took place during September and October 2018 for a period of 4 weeks.
- 13.3 The MP, Ward Councillors, the Executive Members for Soho & Jewellery Quarter, Ladywood and North Edgbaston wards, Emergency Services, West Midlands Combined Authority, bus operators, cycling groups, other key stakeholders and residents were included in the consultation during this period.
- 13.4 Following on from the consultation exercise, 255 responses were received via online webpage (BeHeard), Email, and consultation events which included cycling groups and other key stakeholders:
- 34.1% are in full support
 - 28.2% are partially in support subject to minor amendments to the current proposal
 - 18.4% are not in support
 - 18.4% are neither for or against this proposal
- 13.5 It is planned to undertake a key stakeholder engagement event following detailed design development to inform all, of the latest proposals. This will provide an opportunity for all to view and discuss any issues or concerns to reach a final scheme layout.

14. Human Rights and Public Sector Equality Duty

- 14.1 Section 6 Human Rights 1998 Act prohibits public authorities from acting in a way that is incompatible with the European Convention on Human

Rights (“The Convention.”) There are 2 main articles of The Convention which are applicable to the making of the Order:

ARTICLE 8

“Everyone has the right to respect for private and family life, his home and his correspondence.”

“There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

ARTICLE 1 of the FIRST PROTOCOL

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties. “

14.2 Guidance

14.2.1 Article 8 applies where a local authority is considering disturbing residents’ private and family lives and removing them from their homes. It may also be relevant where residents who, although not directly affected by removal or dispossession, suffer significant disruption to their lives as a consequence of the authority’s actions.

14.2.2 Article 1 of the First Protocol applies where a local authority is considering the use of Compulsory Purchase Order powers to acquire private interests, and where it is proposing to dispossess residents of their homes.

14.2.3 The approach to be taken to give effect to rights under The Convention is also reflected in paragraph 12 of MHCLG Guidance on Compulsory Purchase Process July 2019: “A Compulsory Purchase Order should only be made where there is a compelling case in the public interest. 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”.

14.2.4 The European Court of Human Rights has recognised in the context of Article 1 of the First Protocol that “regard must be had to the fair

balance that has to be struck between the competing interests of the individual and of the community as a whole”, i.e. compulsory purchase must be proportionate. Both public and private interests are to be taken into account in the exercise of the Council’s powers. Similarly, any interference with Article 8 rights must be “necessary in a democratic society” i.e. the proposed interference must be necessary. In pursuing the Order, the Council has to carefully consider the balance to be struck between individual rights and the wider public interest having regarded also to the availability of compensation for compulsory purchase.

Consideration of Human Rights Issues

14.3 Article 8(1) provides that everyone has the right to respect for his/her property, but Article 8(2) allows the State to restrict the rights to respect for the property to the extent necessary in a democratic society and for certain listed public interest purposes e.g. public safety, economic well-being, protection of health and protection of the rights of others.

14.4 In considering Articles 8 and Article 1 of the First Protocol of The Convention in the context of dispossession and compulsory purchase, it is necessary to answer the following:

14.4.1 Does a right protected by these articles apply?

ARTICLE 1 of the FIRST PROTOCOL

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions...”

Clearly the dispossession of an owner of their property through the Order (and if relevant enforced rehousing) will impinge on this right. Also, as a tenancy is a possession under this provision, the rights of tenants must be taken into consideration. The Council must therefore consider all the possible justifications for this interference as detailed in considerations set out below.

ARTICLE 8

Article 8.1 provides that everyone has the right to respect for his/her private and family life, home and correspondence. Article 8.2 allows the State to restrict these rights to respect to the extent necessary in a democratic society and for certain listed public interest purposes.

The essence of this right lies in the concept of respect for the home as a right to privacy, in the same context as private and family life and correspondence. Article 8.1 does not concern itself with the person’s right to the peaceful enjoyment of their home as a possession; this is dealt with under Article 1 of the First Protocol.

Clearly Article 8 does apply and therefore it is necessary for the Council to consider the possible justifications for the interference (Article 8(2)) as follows:

14.4.2 Is the interference in accordance with law?

The Order is necessary to implement a highway and junction improvement scheme to which there is no impediment to implementation (subject to the confirmation of the Order/SRO).

14.4.3 Does the interference pursue a legitimate aim?

The Order is necessary to implement a highway and junction improvement scheme to which there is no impediment to implementation (subject to the confirmation of the Order/SRO)

14.4.4 Is the interference necessary in a democratic society?

This requires a balanced judgement to be made between the public interest and the rights of individuals, and the rights and freedoms of others.

Conclusion – Human Rights

14.5 The Council has considered the effect of the above articles of The Convention and decided that, on balance, it is in the general public interest and of benefit to the community to make the Order over and above the interest of the individuals affected.

14.6 Interference with Convention rights is considered by the Council to be justified. The Council in making this Order has noted a small number of residential properties are being acquired and therefore has had particular regard to meeting the alternative housing needs of the affected households. It has had regard to the rights of individuals to compensation in accordance with the Land Compensation Act 1973 (as amended.), the Land Compensation Act 1961 and the Compulsory Purchase Act 1965 and it is considered to be both necessary and proportionate in that the land to be acquired is the minimum to achieve this Scheme's objectives

Equalities duties

14.7 In addition, authorities must also have regard to the Public Sector Equalities Duty in determining whether to use compulsory purchase powers, and in particular the differential impacts on groups with protected characteristics. This has been considered as part of the reports to approve the making of the order.

14.8 With regards to removing/minimising disadvantages suffered by those with protected characteristics, steps can be taken as part of the compulsory purchase process. The Council can provide copies of this Statement of Case in braille, audio tape or in different languages. The Council has published all the Order core documents on its website to

make them as accessible and available. It will also provide hard copies of Order documents for those without access to the internet. Those affected by the Order are encouraged to seek professional advice and the Council will meet professional fees in appropriate circumstances. Before the compulsory purchase process, there was significant local consultation on both the emerging Development Plan and development proposals for the area.

- 14.9 As the Order progresses, should there be a need for a Public Local Inquiry, when choosing a venue, the Council will have regard to those with disabilities and will consider what other steps it can take in respect of eliminating/minimising discrimination for those with protected characteristics.

15. Inquiries Procedure Rules

- 15.1 This Statement is a Statement of Case in accordance with the Highways (Inquiries Procedure) Rules 1994 and the Compulsory Purchase (Inquiries Procedure) Rules 2007. A list of documents which may be referred to at an Inquiry is attached.

16. Related Orders, applications or appeals

- 16.1 A coordinated decision is required for the Birmingham City Council (Dudley Road Winson Green/Spring Hill Ladywood) (A457 Classified Road) (Side Roads and other Works) Order 2019 and the Birmingham City Council (Dudley Road Winson Green/Spring Hill Ladywood) Compulsory Purchase Order 2019.

17. Objections to the Compulsory Purchase Order

- 17.1 No objections have been received to the Side Roads Order. Objections to the CPO have been received from nine parties of which seven are relevant objections. The case of each objector is considered in turn below and the Council reserves the right to expand and add to its response. Where the objection raised is identical or substantially the same as another, the summary of the objections and responses are given once.

Soho Loop Limited, Plots 18,21,24,25,26,27,28 & 29

- 17.2 Soho Loop have submitted an objection via their solicitors Town Legal LLP and are the registered proprietor of the freehold title to the land comprising plot numbers 18, 21, 24, 25, 26, 27, 28, and 29 in the schedule to the order as shown on the order map (BCC 6).

Summary of objection

- 17.2.1 The objection can be summarised as follows:
- a. The Company has submitted a planning application to the Council (as local planning authority) Council, in relation to land south of the Council's proposed highway improvement works. The Company's scheme has been informed by pre-application

engagement with the Council and is in accordance with the national policy, and the Council's Council Greater Icknield Masterplan.

- b. The Company has expressed concern with the use of compulsory powers to acquire the land rather than the proposed land swap, as the CPO approach is needlessly preventing the Company from delivering its development. The Company claims it has been in extensive discussions with the Council as to a possible land swap which has the potential to allow for both the highway improvement works and the Company's scheme to be delivered, the Company's understanding is that all matters of principle had been agreed. Therefore, there have been inadequate attempts to acquire the Company's interest by agreement.
- c. The Company intends to contribute to the regeneration and growth of the area and feels there is no compelling case in the public interest for granting the Council compulsory purchase powers in relation to the land.

Response

17.2.2 The Council is of the view the highway improvement works will have minimal effect on the delivery of Soho Loop Development. The Council responds to the Objector's points as follows:

- a. It is to be noted that the land subject to the order includes both permanent land take and temporary working space. The widening of Dudley Road corridor will permanently require 852.7 square metres, plus temporary working space which comprises a 3m offset from the proposed boundary of the improved highway.
- b. To deliver the highway scheme on time and to the expected quality, the Council remains keen to progress the land-swap negotiations with Soho Loop to reach an agreement. The Council's Property team have arranged further meetings with Soho Loop in January 2020, to evaluate and proceed with land swap negotiations. The timescale constraints for the delivery of Dudley Road Improvement Scheme mean that alongside the negotiation, the Council have made the Order as a mitigation measure.
- c. The extent of land permanently required (which excludes the temporary working space) will not affect building line of Soho Loop's proposed development. The duration of temporary works will be kept to a minimum with a phased construction approach being adopted. All the temporary working space should be vacated prior to completion of Dudley Road Improvement Scheme early 2021.

Admiral Taverns Limited

17.3 Admiral Taverns have submitted an objection and are the registered proprietor of the freehold title to the land known as The Old Windmill comprising plot number 19. See order plan at BCC 6. The plot includes the whole forecourt to the public house including the cellar drop doors and car parking spaces.

Summary of Objections

17.3.1 The objection can be summarised as follows:

- a) The Company believes the land included in the order is not needed in its entirety as the whole forecourt area is not required as part of the scheme. The Company is concerned at losing the forecourt in its entirety; this would mean that deliveries could not be made as the route to the basement beer cellar would no longer exist.
- b) The Company is concerned over the loss of 10 parking spaces on the forecourt available to the customers. The parking spaces will be lost if this scheme goes ahead and the trading viability of the public house will be further damaged by this proposal.

Response

5.1.1 The Council provides the following response:

- a. The land subject to the order includes both permanent and temporary land take (for working space/accommodation works) required for the scheme. The Council does not have a legal power to acquire compulsorily a temporary right to access land for working space etc. and therefore must show both permanent and temporary land required within the CPO as a title plot. See DfT Circular 2/97 Appendix IIIB paragraph 1(6). Permanent land take is immediately adjacent to the existing highway and the land required temporarily (for working space or accommodation works to the forecourt) comprises the remainder of the forecourt including the cellar drop doors. See BCC 22 Access to and from the property and most importantly the cellar drop will be maintained for deliveries at all times unless agreed with the landlord of the public house.
- b. Birmingham City Council have been and are currently in discussion with Admiral Tavern to reach an agreement for alternative options, to cater for the loss of 10 parking spaces and to provide a workable solution for deliveries. Birmingham City Council officers have tabled three options as below:
 - Option 1 – provision of a left in / left out vehicular access looping around the public house for deliveries.

- Option 2 – provision of a car park adjacent to the public house for the delivery trucks to park up, load and unload goods safely within the vicinity of the property.
- Option 3 – Birmingham City Council to purchase the public house.

These discussions include Soho Loop (whose land is impacted by option 1 to find a solution satisfactory to all parties. A meeting took place in early January 2020 to reach an agreement on one of the options above, and these discussions continue.

Daljit Singh Reandy

17.4 Mr Singh Reandy has objected to the CPO via his agent Bruton Knowles. He holds the freehold interest in 210 Dudley Road, Birmingham and 192 – 193 Icknield Port Road, Birmingham. These properties are included in the Order under plots 5, 6, and 8. See plan at BCC 6.

Summary of Objection

17.4.1 The objection can be summarised as follows:

- a) The Council has not demonstrated the potential alternative options, which would have lesser impact on Mr Singh's property. The Company feels the Council has provided no evidence, either in the Statement of Reasons or through engagement with the Company to ensure any land acquisition is minimised through the design and method of implementation for the scheme.
- b) The reason for acquiring both titles in their entirety has not been explained by Council, the drawing layout for the scheme shows that only a very small part of 210 Dudley Road and 192 - 193 Icknield Port Road is required for the scheme.
- c) The Council is not utilising the parcel of vacant land it owns at the junction of Dudley Road and Icknield Port Road, which should be of sufficient size for temporary/accommodation works during the construction of the scheme.
- d) The information provided by the Council confirms the proposed highway will not encroach on the existing building.
- e) The land required for the Order appears to conflict with the guidance stated at 3.7.3 of the Statement of Reasons.
- f) The Council has not engaged in meaningful negotiations with the Company and therefore it is premature to use compulsory purchase powers.

Response

17.4.2 The Council responds as follows:

- a) It notes that Mr Singh is broadly supportive of the highway improvement proposal.
- b) Property 210 has been included within the CPO following early discussions with Mr Reandy, who advised Council officers that the property 210 formed part of the current business (Tara Motors) and is used as a storage facility, it was jointly agreed to include it in within the CPO. The private means of access to the property 192 – 193 Icknield Port Road will lose 27 square metres of the current forecourt. This creates safety concerns, which greatly limit options for alternative alignments.
- c) The proposed junction improvement introduces a dedicated left turn lane. For vehicles exiting the premises and wishing to turn right into Dudley Rd, this raises safety concerns as such a manoeuvre would require vehicles to cross two lanes of traffic to access the right-hand turn lane, very close to the junction.
- d) It is to be noted that the land subject to the order includes land required both permanently and temporarily, (including working space). The land remaining after the carrying out the improvement works leaves only 6 metres of forecourt which is currently used for car parking purposes. This will have a detrimental impact on the operation of the motor repair business. Car Parking Guidelines: Supplementary Planning Document – Appendix 2 (BCC23) states that vehicle maintenance/repair garage/tyre and exhaust fitting must provide a minimum of 4 spaces per working bay including a disabled car parking space. Currently parking takes place primarily on the forecourt. Both currently and also after the carrying out of the highway works, the site would not comply with the Council's current policy. Additionally, the highway scheme will result in there being insufficient parking or waiting area outside the existing building so if vehicles cannot access the garage premises immediately on arrival these vehicles would block the vehicles on Icknield Port road and Dudley Road junction. There is no alternative land that can be offered for forecourt parking.
- e) Council officers have been in discussion and negotiations with Mr Singh to acquire the premises and a written offer has been made to the agent via email on 22 May 2019 to acquire the garage premises and adjacent semi derelict police premises. The Council proposes that both the garage premises and land adjacent to the property will be utilised as temporary working space by the Council to enable the permanent works to be delivered. The Council has included within the purposes of the CPO (which specify why the land is being

acquired) reference to section 239(6) Highways Act 1980 – development of frontage land. After the highway works are concluded the remaining land not incorporated into the highway scheme, may be appropriated for housing use and the site redeveloped for much needed housing in the locality.

Tara Motors Limited

17.5 Tara Motors have submitted an objection via the agent Bruton Knowles and hold a leasehold interest in the land known as 192 – 193 Icknield Port Road comprising plot 8 of the CPO see BCC 6. The property comprises a small forecourt and garage/motor vehicle repair premises.

Summary of Objection

17.5.1 The objection can be summarised as follows:

- a) The Company claims the Council has not demonstrated alternative options, which would have a lesser impact on the Company`s property. The Company feels the Council has provided no evidence, either in the Statement of Reasons or through engagement with the Company to ensure any land acquisition is minimised through the design and method of implementation for the scheme.
- b) The Company claims the reason for acquiring the interest in its entirety has not been explained by the Council. The layout drawing for the scheme shows that only a very small part of 192 - 193 Icknield Port Road is required for the scheme.
- c) The Company is concerned the Council is not utilising the parcel of vacant land it owns at the junction of Dudley Road and Icknield Port Road shown as plot 7 on BCC6 that should be of sufficient size for temporary works during the construction of the scheme.
- d) The Company feels the information provided by the Council confirms the proposed highway will not encroach on the existing building.
- e) The Company notes the building will be demolished and landscaped and in future may be appropriated for housing use. This implies it is not required for the highway scheme and appears to conflict with the guidance stated at 3.7.3 of the Statement of Reasons
- f) The Company maintains the Council has not engaged in meaningful negotiations with the Company and therefore it is premature to use of compulsory powers.

Response

17.5.2 The Council responds as follows:

- a) It is noted that Tara Motors are broadly supportive of the highway improvement proposals.

- b) The private means of access to the property 92 – 193 Icknield Port Road is only 27.02 metres south of the intersection junction of Icknield Port Road, Dudley Road & Winson Green Road. This creates safety concerns for vehicles using the proposed dedicated left turn only on Icknield Port Road which greatly limit options for alternative alignments which would minimise the impact on the property.
- c) The proposed junction improvement introduces a dedicated left turn lane. For vehicles exiting this private means of access and wishing to turn right into Dudley Road, this raises safety concerns as such a manoeuvre would require vehicles to cross two lanes of traffic to access the right-hand turn lane very close to the junction
- d) The highway scheme also removes any parking or waiting area outside the existing building. If they could not access the garage premises these vehicles would block the proposed dedicated left-turn only lane on Icknield Port Road and Dudley Road junction.
- e) It is to be noted that the land subject to the order includes land required both permanently and temporarily, (including working space). The land remaining after the carrying out the improvement works leaves only 6 metres of forecourt land and this will have a detrimental impact on the operation of the motor repair business. Additionally, the highway scheme will result in there being insufficient parking or waiting area outside the existing building so if vehicles cannot access the garage premises immediately on arrival these vehicles would block the third left-turn only lane on Icknield Port Road and Dudley Road junction. There is no alternative land that can be offered for forecourt parking etc. which will make the business unviable. As such Council officers have been in discussion and negotiations with Tara Motors to acquire the land and a written offer has been made to the agent for the freeholder and leaseholder via email on 22 May 2019 to acquire the garage premises and adjacent semi derelict police premises. It is proposed that both the garage premises and land adjacent to the property will be utilised as temporary working space for the duration of the scheme to enable the permanent works to be delivered.
- f) The Council has included within the purposes of the CPO (which specify why the land is being acquired) reference to section 239(6) Highways Act 1980 – development of frontage land. After the highway works are concluded the remaining land may be appropriated for housing use and the site redeveloped for much needed housing in the locality.

Tesco Property Holding Limited

17.6 Tesco Property Holdings Limited, Tesco Navona (Nominee 1) Limited, Tesco Navona (Nominee 2) Limited, Tesco Stores Limited and Tesco Navona PL Propco Limited have submitted an objection via their solicitors Bryan Cave Leighton Paisner. Tesco Property Holdings Limited are owner of the freehold interest in land at Camden Street, Birmingham plots 34, 35, 36 and 37 and Tesco Navona (Nominee 1) Limited, Tesco Navona (Nominee 2) Limited, Tesco Stores Limited and Tesco Navona PL Propco Limited, the owners of leasehold interests in the same land (collectively referred to as "Tesco").

Summary of Objection

17.6.1 The objection can be summarised as follows:

- a) The Company maintains the Council has not demonstrated the necessity for the permanent acquisition of plots 34, 35, 36 or 37 or the consequential interference with Tesco's existing rights in this land is proportionate in the circumstances.
- b) The Company claims the proposed highway works plan (reference CA_02715_s1 050 Rev G), as approved by the Councils Cabinet on 14 May 2019 does not identify any highway improvements along plots 34, 35, 36 or 37 which would necessitate the acquisition of this land.
- c) The Company claims The Council's Order conflicts with the applicable guidance (MHCLG guidance on CPO Process July 2019), it is not considered that the Council has yet to engage in negotiations with Tesco in respect of the land required for the scheme which would be sufficient to convincingly demonstrate to the Secretary of State that meaningful attempts at negotiation have been pursued or at least genuinely attempted.

Responses

17.6.2 The Council responds as follows:

- a) It is noted that Tesco does not object to the principle of the order. It also appears neither Tesco's freehold nor leasehold interests are registered at the Land Registry clarifying who owns the land.
- b) The area in question comprises paving/hardstanding at the eastern corner of Ellen Street and Spring Hill and appears to be used by the public at large as footway. This scheme (BCC2) proposes a segregated footway in the vicinity of plots 34, 35, 36 and 37.
- c) The Council sent a copy of the scheme drawings/plans (BCC2) to Tesco via email on 20 November 2019 which demonstrates the nature of the works to be carried out within the vicinity of plots 34 - 37. It is to be noted, there is no intention to propose physical works within the vicinity of Tesco's property. Although the current property

is used by the public as footway, the Council will require access to carry out works to construct a segregated footway as shown on (BCC 2). No temporary working space is required to deliver the scheme and all land acquired will be highway maintainable at public expense.

- d) The revised scheme plan has been further amended to demonstrate highway improvements along plot 34 - 37. The up to date scheme plan was been issued to Tesco's solicitors via email on 20 November 2019.

Canal & River Trust

17.7 Canal & River Trust acting as a trustee of Waterways Infrastructure Trust, have submitted an objection. The Trust owns and operates that part of the Birmingham Canal comprising plot 13 of the CPO.

Summary of Objections

17.7.1 The objection can be summarised as follows:

- a) The Company returned a completed property questionnaire to the Council on 26 June 2019. The Company confirmed that the culvert is an essential part of the Trust's water supply and requested that the Trust should be consulted on any proposed works, to ensure that they are designed and constructed such that they will not have any adverse impact on the future operation and maintenance of the Trust's assets. The Trust claims no response has been received from Council.
- b) The Trust claims no technical drawings have been provided to permit an assessment of the impact of this scheme. Therefore, it is unknown how the order will affect the navigation.
- c) The Trust requests the Council to clarify whether the advertising hoarding within plot 13 will be relocated or reinstated.
- d) The trust maintains the Council has not engaged in meaningful discussion of reasonable offers or constructive engagement with the Company, regarding mitigation.

Response

17.7.2 The Council responds as follows:

- a) The CPO plot 13 expressly excludes the canal structure situated beneath the land. Council officers have met with CRT to provide assurance that the proposed highway improvement works will not have an adverse impact on the future operation and maintenance of the Trust's assets. Department for Transport Circular 1/97 refers at paragraphs 5.6 onwards, to the situation where it may be necessary to show as stopped up, on a side roads order plan, certain areas of highway. In summary these paragraphs provide that local highway

authorities are required to fulfil the duty imposed on them under section 130 Highways Act 1980 to assert and protect public rights to use and enjoy any of the highway consistent with those rights. There are differing legal views as to whether more than one highway can exist on the same plane. The circular stipulates that where an existing highway crosses or enters a new highway in the same plane or crosses or enters the projected works of the highway improvement, it is sensible practice that the existing highway should be stopped up. Local highway authorities are encouraged to adopt this approach, which is considered to be acting consistently with their duty under section 130 of the 1980 Act.

The areas of highway to be shown stopped up on the side roads order plan follow this advice. It is a legal mechanism whereby the area of side road, which is to be covered by the proposed widening of the classified Road (Dudley Road/Spring Hill passage), is extinguished. This is a technical legal point.

- b) Council officers met with officers from the Trust on 08 January 2020, to clarify and brief the Trust on the proposed works, and to discuss the impact of the proposals if any on the Trust's assets.
- c) Council officers issued BCC2 to the Trust on 10 December 2019, to confirm the order will not affect the navigation.

Council officers have had a follow up meeting with CRT on 10 January 2020 to table BCC6 to confirm there is no advertising hoarding within plot 13.

- d) The Council is not aware of an advertising hoarding within plot 13. Plot 13 will only be utilised for temporary working space.
- e) The land in plot 13 of the CPO is included in the CPO as a consequence of the requirement to stop up of an area of the highway known as Northbrook Street in the Side Roads Order. This is done in compliance with the advice in DfT Circular 1/97 BCC 20 (paragraphs 5.6 – 5.10) as Dudley Road is being widened to cover a small area of Northbrook St. The Council therefore needs to re-acquire the highway level of that small area of land so that the widened Dudley Rd can continue to be highway maintainable at the public expense. The plot is included as a legal technicality and there is no intention to acquire the subsoil interest or any of the Trusts canal infrastructures in the plot.
- f) The Council has agreed to seek a modification to the CPO to remove a small area of land from plot 13. The Council will continue to meet with the Trust as necessary to engage in meaningful discussion to address all of Trust's major concerns for this scheme.

Devnick Limited

17.8 Devnick Limited have objected via their agent Bruton Knowles and hold the freehold interest in 195 – 197 Dudley Road, Birmingham, plots 3 and 4.

Summary of Objections

17.8.1 The objection is summarised as follows:

- a) The Company claims the Council has not demonstrated that there are alternative options that would cause less impact on the Company's property.
- b) The Company claims the Council has provided no evidence, either in the Statement of Reasons or through engagement with the Company to ensure any land acquisition is minimised through the design and method of implementation for the scheme. The Council could use land it owns to the south west of the junction of Dudley Road and Icknield Port Road to avoid acquiring this land.
- c) The Company claims the land required for the Order is more than is required for the highway scheme and appears to conflict with the guidance stated at 3.7.3 of the Statement of Reasons
- d) The Council has not complied with CPO Guidance in seeking to acquire the interest via negotiation and so the CPO is not a last resort.

Response

17.8.2 The Council responds as follows:

- a) The CPO includes the entire property to widen the classified road corridor. There are no alternative options to demolishing the property as the width of current substandard lanes do not meet with the Design Manual for Roads and Bridges – Volume 6.
- b) The highway widening at this location requires the whole property to be demolished so part can be included within the improved classified road. See DfT Circular 2/97 (paragraph 19) BCC 21 which clarifies where widening or new construction cuts through a building it is usually appropriate to acquire the site of the entire building. The remainder is required as working space to enable the permanent works to be delivered.
- c) The Council has included within the purposes of the CPO (which specify why the land is being acquired) reference to section 239(6) Highways Act 1980, development of frontage land. After the highway works are concluded the remaining land may be appropriated for housing use and the site redeveloped for much needed housing in the locality.

- d) Council officers have visited the properties to notify tenants of the proposed scheme, letters have been issued on 01 August 2019 via and phone calls have been made to the land owners to begin negotiations.

Other objections

17.9 Two non-statutory objections were received.

Non-Statutory Objection 1 (NSO1)

Summary of Objections

17.9.1 NSO1 can be summarised as follows:

- a) NSO1 claims the proposed scheme plans were only available on A4 paper copies which make the plans challenging to interpret.
- b) NSO1 has expressed concerns regarding the proposed shared route, around main junctions such as Western Road and along Spring Hill. NSO1 feels the residents will strongly oppose to the Council's `growth` agenda.
- c) NSO1 claims there has not been remotely proper let alone nearly honest consultation about this proposed `improvement`.
- d) NSO1 feels the plan to introduce a cycle path down the north side of Spring Hill entails a considerable risk of serious injury. They also question the relevance of proposing cycling facilities on Dudley Road and Spring Hill.
- e) NSO1 feels the segregated cycleway and the shared path will not benefit the road users as pedestrians intend to use both lanes which make it less efficient. NSO1 is concerned that drivers will frequently park on the cycle route areas.
- f) NSO1 claims Push Bikes and Friends of the Earth made similar objections of safety concerns to the proposed scheme.
- g) NSO1 feels the proposed widening scheme will substantially impair the experience of walking up and down Dudley Road/Spring Hill by reducing the green border.
- h) NSO1 claims the scheme will increase air pollution as it encourages more vehicles to use the corridor. NSO1 also feels this scheme is missing bus priority measures which fail to meet the requirements.
- i) NSO1 feels the removal of trees and the retaining wall on the frontage of the Birmingham City Hospital will not improve the Dudley Road area.

Response

17.9.2 The Council responds as follows:

- a) Council officers have rectified the plans once it was raised and deposited A0 plans at both Lancaster Circus and Summerfield Community Centre.
- b) Council officers have deposited the latest scheme plan following responses from the consultation exercise and follow up meetings with key stakeholders. The current scheme plan shows segregated cycle and pedestrian facilities on wide footways from Western Road along Spring Hill.

The public consultation was undertaken in October 2018, analysis of the consultation responses shows only 18% of local residents, local businesses and stakeholders are not in support of this scheme. The consultation feedback led to a number of design changes to the scheme proposals, particularly the cycling measures. As a result, a revised scheme layout was approved by cabinet on 14 May 2019 (BCC 16) to include enhanced cycle measures and additional land acquisition that would enable the retention of more trees.

- c) The local residents have been engaged in the development of the scheme through the formal consultation process and other communication channels including meetings and email.

Council officers will work together to develop an ongoing stakeholder and communication plan for the project. This will ensure that key messages about the scheme are relayed to the public and stakeholders through various forms of media and signing on the ground.

- d) The relevance of proposing this scheme have been set out in BCC 15, the proposals will encourage more sustainable modes of transport for trips to and from the City centre, particularly cycling as an alternative mode of transport within communities and social groups who do not view cycling as an option at present. This proposal will provide safer cycle facilities to encourage more people to cycle, reducing traffic congestion and carbon emissions.
- e) The scheme supports the delivery of the Council Plan 2018 – 2022 (as updated in 2019), specifically; Outcome 1 – “We will develop our transport infrastructure, keeping the city moving through walking, cycling and improved public transport” and “We will create opportunities for local people to develop skills and make the best of economic growth”.

The key benefits of this project are to support and protect the city’s growth objectives within the Greater Icknield area, in terms

of enabling access to key development sites which will bring forward approximately 3,000 new homes along with other local facilities and employment opportunities. The scheme also reduces congestion and provides improvements for public transport together with improved pedestrian and cycling facilities.

Following analysis of the consultation responses, Traffic Regulation Orders (TRO) is required to amend parking and loading restrictions.

- f) The stakeholders (including Push Bikes and Friends of the Earth) have had the opportunity to comment on the initial consultation, subsequently they have been engaged in the development of the revised scheme plan including meetings and email, and feedback comments have been taken on board and revised where possible.
- g) Council officers will undertake a landscape strategy to provide guidance on how the existing trees and other vegetation can be integrated into construction to ensure maximum retention.
- h) Following the consultation exercise, the scheme plan has been revised to improve air quality by minimising tree loss and landscaped areas e.g. at the front of the City Hospital site. Replacement of low quality trees with a selection of native species to enhance amenity biodiversity and ultimately improve air quality.
- i) The revised scheme plan BCC 2 shows the trees and the retaining wall situated on the frontage of the hospital will be retained.

Non-Statutory Objection 2 (NSO2)

Summary of Objections

17.9.3 The objection can be summarised as follows:

- a) NSO2 claims the proposed scheme plans were only available on A4 paper copies which make the plans difficult to interpret.
- b) NSO2 is concerned over physically stopping up the entrance to Spring Hill Passage. This will cause difficulties to service the Salisbury Tower which has 116 flats.
- c) NSO2 feels the proposal for Dudley Road is entirely misconceived and will not have a positive impact on air pollution.
- d) NSO2 feels the plan to introduce a cycle path down the north side of Spring Hill entails a considerable risk of serious injury.

NSO2 questions the relevance of proposing cycling facilities on Dudley Road and Spring Hill.

- e) NSO2 feels the segregated cycleway and the shared path will not benefit the road users as pedestrians intend to use both lanes which make it less efficient.
- f) NSO2 claims Push Bikes and Friends of the Earth made similar objections of safety concerns to the proposed scheme.
- g) NSO2 feels the proposed widening scheme will substantially impair the experience of walking up and down Dudley Road/Spring Hill by reducing the green border.
- h) NSO2 claims the scheme will increase air pollution as it encourages more vehicles to use the corridor. NSO2 also feels this scheme is missing bus priority measures which fail to meet the requirements.
- i) NSO2 feels the removal of trees and the retaining wall on the frontage of the Birmingham City Hospital will not improve the Dudley Road area.

Response

17.9.4 The Council responds as follows:

- a) The Council officers have rectified the plans once it was raised and deposited A0 plans at both Lancaster Circus and Summerfield Community Centre.
- b) Department for Transport Circular 1/97 refers at paragraphs 5.6 onwards, to the situation where it may be necessary to show as stopped up, on a side roads order plan, certain areas of highway. In summary these paragraphs provide that local highway authorities are required to fulfil the duty imposed on them under section 130 Highways Act 1980 to assert and protect public rights to use and enjoy any of the highway consistent with those rights. There are differing legal views as to whether more than one highway can exist on the same plane. The circular stipulates that where an existing highway crosses or enters a new highway in the same plane or crosses or enters the projected works of the highway improvement, it is sensible practice that the existing highway should be stopped up. Local highway authorities are encouraged to adopt this approach, which is considered to be acting consistently with their duty under section 130 of the 1980 Act.

The areas of highway to be shown stopped up at Spring Hill Passage on the side roads order plan, follows this advice. It is a legal mechanism whereby the area of side road, which is to be covered by the proposed widening of the classified Road (Dudley Road/Spring Hill passage), is extinguished. This is a legal device. There is no intention to physically close access to such roads and prohibit vehicles or pedestrians from accessing the various side roads impacted in this way e.g. Ellen Street, Spring Hill passage and others.

- c) The relevance of proposing this scheme have been set out in BCC 15, this scheme will significantly improve the air quality by minimising tree loss and landscaped areas and will replace the low quality trees with a selection of native species to enhance amenity biodiversity and ultimately improve air quality.
- d) The relevance of proposing this scheme have been set out in BCC 15, the proposals will encourage more sustainable modes of transport for trips to and from the City centre, particularly cycling as an alternative mode of transport within communities and social groups who do not view cycling as an option at present. This proposal will provide safer cycle facilities to encourage more people to cycle, reducing traffic congestion and carbon emissions.
- e) The scheme supports the delivery of the Council Plan 2018 – 2022 (as updated in 2019), specifically; Outcome 1 – “We will develop our transport infrastructure, keeping the city moving through walking, cycling and improved public transport” and “We will create opportunities for local people to develop skills and make the best of economic growth”.

The key benefits of this project are to support and protect the city's growth objectives within the Greater Icknield area, in terms of enabling access to key development sites which will bring forward approximately 3,000 new homes along with other local facilities and employment opportunities. The scheme also reduces congestion and provides improvements for public transport together with improved pedestrian and cycling facilities.

Following analysis of the consultation responses, Traffic Regulation Orders (TRO) is required to amend parking and loading restrictions.

- f) The stakeholders (including Push Bikes and Friends of the Earth) have had the opportunity to comment on the initial consultation, subsequently they have been engaged in the development of the revised scheme plan including meetings and email, and feedback comments have been taken on board and revised where possible.
- g) Council officers will undertake a landscape strategy to provide guidance on how the existing trees and other vegetation can be integrated into construction to ensure maximum retention
- h) Following the consultation exercise, the scheme plan has been revised to improve air quality by minimising tree loss and landscaped areas. Replacement of low quality trees with a selection of native species to enhance amenity biodiversity and ultimately improve air quality.
- i) The revised scheme plan BCC 2 shows, the trees and the retaining wall situated on the frontage of the hospital will be retained.

18. Conclusion

18.1 The Council is of the view that in the light of the justification for the scheme and responses to objections set out in this statement of case, both the CPO and the SRO should be confirmed. The Council will continue to negotiate for the acquisition of all land required in parallel with progressing the compulsory purchase process, to ensure the scheme is delivered in a timely manner and funding is not lost through delays in securing the land.

19. Documents Supporting the Order

BCC1 - Birmingham City Council (Dudley Road Winson Green/Spring Hill Ladywood) (A457 Classified Road) (Side Roads and other Works) Order 2019.

BCC2 - Scheme Plan accompanying the Birmingham City Council (Dudley Road Winson Green/Spring Hill Ladywood) (A457 Classified Road) (Side Roads and other Works) Order 2019.

BCC3 - Plan accompanying the Birmingham City Council (Dudley Road Winson Green/Spring Hill Ladywood) (A457 Classified Road) (Side Roads and other Works) Order 2019.

BCC4 - Statement of Reasons for the Birmingham City Council (Dudley Road Winson Green/Spring Hill Ladywood) (A457 Classified Road) (Side Roads and other Works) Order 2019.

BCC5 - The Birmingham City Council (Dudley Road Winson Green/Spring Hill Ladywood) Compulsory Purchase Order 2019.

BCC6 - Order Map accompanying the Birmingham City Council (Dudley Road Winson Green/Spring Hill Ladywood) Compulsory Purchase Order 2019.

BCC7 - Statement of reasons accompanying the Birmingham City Council (Dudley Road Winson Green/Spring Hill Ladywood) Compulsory Purchase Order 2019.

BCC8 - Location Plan.

BCC9 - National Planning Policy Framework.

BCC10 - Birmingham Development Plan – Extracts and Policies Map.

BCC11 - The Greater Icknield Masterplan.

BCC12 - Shopping and Local Centres SPD.

BCC13 - Birmingham Connected “Moving our City Forward Birmingham Mobility Action Plan White Paper.

BCC14A – West Midlands Local Cycling and Walking Infrastructure Plan 2019

BCC14B – Birmingham Walking and Cycling Strategy Consultation Draft June 2019

BCC15 - Cabinet report of the Corporate Director Economy: Dudley Road Improvement Project Definition Document 26 June 2018.

BCC16 - Cabinet report of the Director of Inclusive Growth: Dudley Road Improvements Land Requirements 14 May 2019.

BCC17 - Movement for Growth: The West Midlands Strategic Transport Plan (West Midlands Combined Authority)

BCC18 – Department for Transport funding approval for `A457 Dudley Road Improvement Scheme.

BCC 19 – Photographs

BCC 20 - DfT Circular 1/97 Highways Act 1980 Orders under section 14 of the Highways Act 1980 i.e. Side Roads Orders

BCC 21 - DfT Circular 2/97 Notes on the preparation of CPOs for Highway Schemes etc.

BCC 22 - Land requirement Plan for Admiral Taverns

BCC 23 - Car Parking Guidelines: Supplementary Planning Document

BCC 24 - Screening opinion