

**Sections 239, 240, 246 and 260
Highways Act 1980
Acquisition of Land Act 1981**

**THE WARRINGTON BOROUGH COUNCIL (OMEGA TO
BURTONWOOD ACCESSIBILITY IMPROVEMENTS)
COMPULSORY PURCHASE ORDER 2019**

REFERENCE:

NATTRAN/NW/LAO/194

Proof of evidence of

JOHN NICHOL

**(Scheme Development, Transport Planning, and
Compulsory Purchase Justification)**

1 INTRODUCTION AND QUALIFICATIONS

- 1.1 I am John Nichol and I am a Principal Transport Planner within the Transport Planning team at Warrington Borough Council where I have been employed for over seven years. I hold degrees in Physical Geography, Town Planning and a diploma in Management Studies, and I have been a member of the Royal Town Planning Institute (MRTPI) since 1986.
- 1.2 I have over 30 years' experience in transport planning having previously worked at Stoke-on-Trent City Council as the Strategic Manager for Highways and Transportation. My primary role at Warrington Borough Council is to deliver the Council's Active Travel infrastructure programme, including new footpath and cycle schemes. I also have project management experience in delivering major highway projects, such as the Warrington East phases 1, 2 and 3 in Birchwood, Warrington.

Scope of Evidence

- 1.3 This proof of evidence has been prepared in order to address the background and need for the Scheme, transport and planning policy, and the justification for compulsory acquisition in support of confirmation of the Order [**document 1** to the Council's Statement of Case ("SoC")] for the improvement of Burtonwood Road and Clay Lane to extend the highway in order to incorporate a cycle lane with pedestrian rights of way on foot. The Order was made by Warrington Borough Council ("the Council") on 18 April 2019 and submitted to the Secretary of State for Housing, Communities and Local Government on 25 April 2019. The Order is now due to be considered by an inspector at a Public Inquiry scheduled to open on Tuesday 5 November 2019. This proof of evidence has been prepared in connection with that Inquiry.
- 1.4 I confirm that the evidence that I have prepared in respect of this Inquiry is given in accordance with the RTPI Code of Professional Conduct. I can also confirm that the opinions expressed are my true and professional opinions.
- 1.5 The purpose of my evidence is to explain the background, need and justification for the Scheme, together with the transport and planning policy support for the Scheme. I also address the grounds of objection raised by statutory and non-statutory objectors ("the Objections") insofar as they relate to my area of expertise.
- 1.6 My evidence includes an overview of the location of the Scheme; a description of the land included in the Order ("the Order Land"); consideration of the need for the Scheme; a description of the Scheme; a summary of transport and planning policy support at both a national and local level; a response to the Objections; and my conclusions on the justification for seeking confirmation of the Order.
- 1.7 My proof of evidence should be read in conjunction with other separate but interrelated proofs of evidence submitted on behalf of the Council, including:
- 1.7.1 Technical Highways Engineering prepared by Keith Sanders of Warrington Borough Council;
 - 1.7.2 Land Assembly and Ongoing Negotiations prepared by Kate Okell of Axis Property Consultancy; and
 - 1.7.3 Impact on School Students prepared by Catherine Thompson of Warrington Borough Council.

2 LOCATION OF THE SCHEME AND ORDER LAND

Introduction

- 2.1 This section of my proof of evidence provides an overview of the location of the Scheme.

Location of the Scheme and the Order Land

- 2.2 The Scheme is shown on the Site Plan [**appendix 2** to the Council's Statement of Reasons ("SoR")] and is located on the west side of Clay Lane and Burtonwood Road, between Haley Road South in Burtonwood village and the roundabout at Junction 8 on the M62.
- 2.3 The boundary of the Order Land is shown on the plan which accompanies the Order ("the Revised Order Map") [**document 7** to the SoC]. The land to be acquired ("the Order Land") is shown on the Revised Order Map edged in red and numbered as plots 1-12. These plots fall within a number of different ownerships, including freehold, leasehold and occupational interests. Subject to a proposed modification from the original Order as submitted for confirmation (that I describe below), all plots are required in order to construct the new integral cycle track with a right of way on foot as part of improved Burtonwood Road/Clay Lane.
- 2.4 In summary the plots can be described as follows:
- 2.4.1 Plot 1 consists of grass verge adjoining the existing highway, together with grassed garden and private driveway leading to Clay Lane Farm;
 - 2.4.2 Plots 7 - 9 consist of land within the curtilage of Fingerpost Farm, being cleared land, garden and garden wall; and
 - 2.4.3 Plots 2 – 6 and 10 - 12 are strips of land, which are currently either in scrub condition or form part of the areas within and adjacent to the boundaries of agricultural fields along Clay Lane and Burtonwood Road, proximate to properties Ivy Cottage and Fingerpost Farm.
- 2.5 Given that the Mining Code has been incorporated into the Order, as per the details set out in Section 2 of this Statement, the Order Land does not extend into subsoil and minerals.
- 2.6 Details of the negotiations with the affected parties to date are detailed in the Proof of Evidence of Kate Okell.

3 BACKGROUND TO THE NEED FOR THE SCHEME

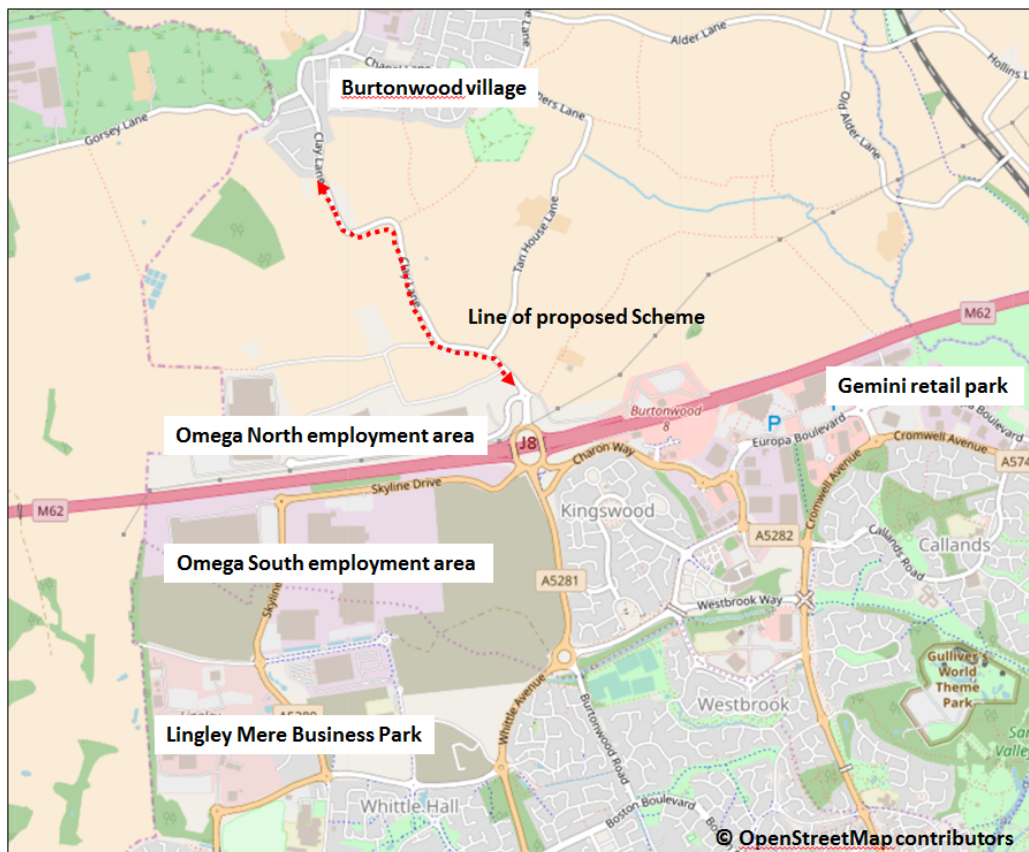
3.1 This Section of my evidence relates to the background and need for the Scheme, and covers the issues the Scheme seeks to address, the alternatives considered and the development of the Scheme.

Background to the Scheme

3.2 The village of Burtonwood is located north of the M62 in North West Warrington. It is connected to the main Warrington urban area by a C class road (Clay Lane/Burtonwood Road), with the most direct route being via Junction 8 of the M62.

3.3 The village lies 2.4km to the north of the strategically important employment areas of Omega North and South and the Gemini retail park. Just to the south of Omega there is the Lingley Mere Business Park which includes the United Utilities offices. Collectively these three sites employ over 14,000 people. These are shown in Figure 1.

Figure 1 - Location of Scheme in North West Warrington



3.4 The development of the Gemini retail park and the rapid expansion of the Omega employment area have meant that there is an increase of jobs on offer to local people including those living in Burtonwood. The suitability of the route between Burtonwood and the Omega and Gemini employment areas for walking and cycling trips to work is therefore an important consideration.

Need for the Scheme

3.5 The Burtonwood Transport Study carried out in May 2015 ("the Transport Study") [appendix 5 to the Council's SoR], found that there was a strong demand for people wishing to walk or cycle between Burtonwood and the employment opportunities at

Omega/Gemini. However, Clay Lane and Burtonwood Road are both rural roads with no footpaths or cycleways, and have several tight bends. Pedestrians must, therefore, walk in the road or in the grass verge and cyclists must share the road space with vehicles.

- 3.6 The speed limit along this section of road is 40mph for most of its length having changed in April 2019 from 60mph (since the Council's Statement of Reasons was finalised). The speed limit over the last stretch of road from the bend adjacent to Plot 4 north to Burtonwood Village is 30mph, as shown in Figure 2 below.

Figure 2 – Speed Limits along Burtonwood Road/Clay Lane

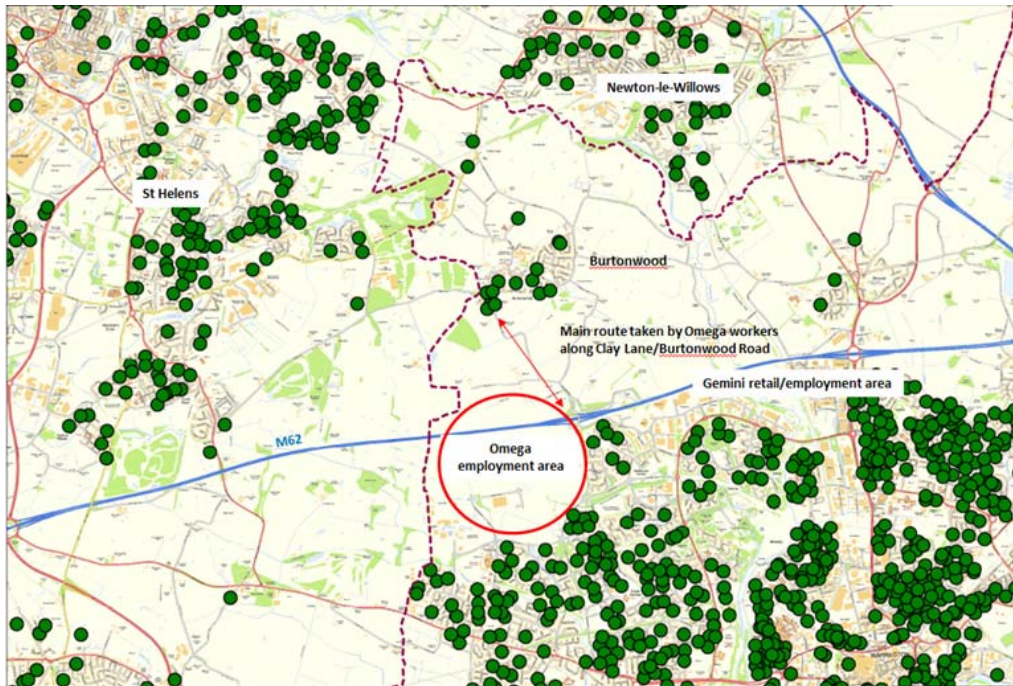


- 3.7 Taking all of this into account, it is an unpleasant and dangerous route for pedestrians and cyclists, which is a major deterrent to anyone wishing to walk and/or cycle along its length.

Jobs and the journey to work

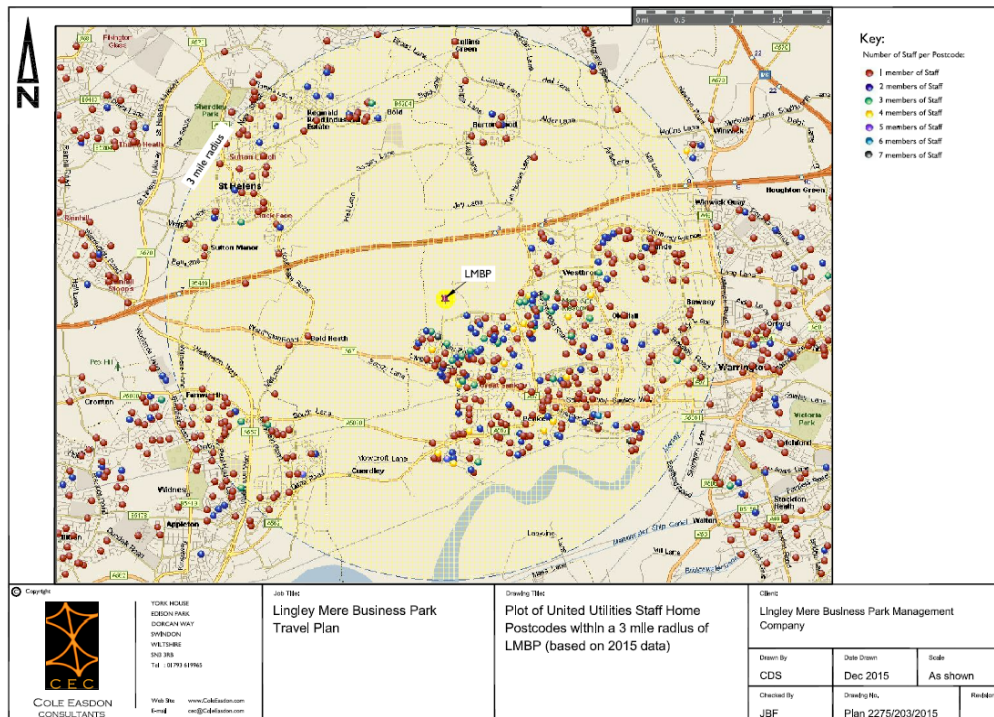
- 3.8 As I have mentioned in Section 3.4, this Scheme supports journeys to and from work by means other than the private car. Collectively, there are over 14,000 jobs based at the Lingley Mere, Gemini, and Omega employment areas. Figure 3 plots with each green dot a postcode at which one or more people may live and have jobs based at Hermes, Travis Perkins, Brakes, Amazon, and The Hut Group, which are all located within the Omega employment area. This figure shows that some Burtonwood residents currently work at those companies and a few others live just over the border in St Helens and Newton-le-Willows. For people living in the east of St Helens and the south of Newton-le-Willows, the route along Clay Lane and Burtonwood Road is the most direct and convenient access to the Omega employment area.

Figure 3 - Postcode plot of employees based at Omega



3.9 Similarly, Figure 4 shows a home postcode plot for staff based at the United Utilities office at Lingley Mere where each dot represents one of more employees living at this postcode. Again, this figure shows that there are people who live in Burtonwood who make the journey to work along Clay Lane/Burtonwood Road. From the annual travel surveys of staff it is calculated that most of these people drive.

Figure 4 - Postcode plot of employees based at United Utilities office, Lingley Mere



3.10 There is limited equivalent data for people who work at Gemini, but the public consultation events that informed the Burtonwood Transport Study [appendix 5 to the

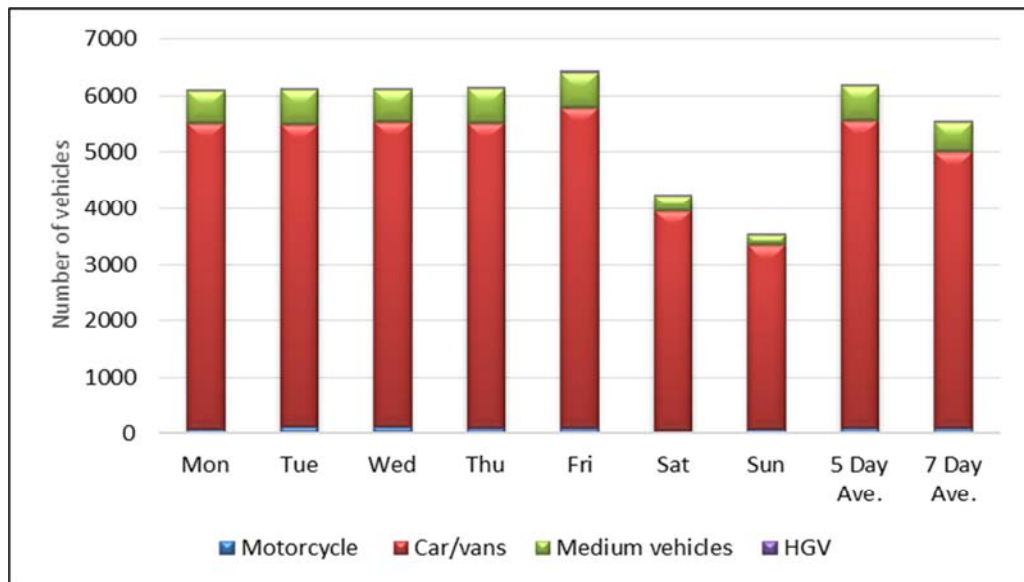
Council's SoR] revealed that there are many people who work at Gemini and who have a desire to travel in a more sustainable and safe way.

- 3.11 A common stated reason given by Burtonwood residents who are employees at all of these employment sites for not walking or cycling to work is the lack of an integral cycle track with a right of way on foot alongside Clay Lane/Burtonwood Road. The high levels of traffic using this route, and the high speed of some traffic using this route are significant deterrents to making the journey.

Traffic Flows

- 3.12 The road between Burtonwood and Junction 8 carries a much higher level of traffic than usual for its type. Figure 5 shows the two-way traffic flows on Clay Lane from September 2017. At over 6,000 vehicles per week day, this is similar to traffic levels recorded for some A or B class roads in Warrington. This creates a dangerous and unpleasant environment for anyone trying to walk or cycle along this section of highway.

Figure 5 - Traffic count data for Clay Lane



Consultation

- 3.13 Two public consultations for the Burtonwood Transport Study took place on:
 - 3.13.1 4 and 6 December 2014 (Stage 1) – this was a public consultation with local people and with a number of stakeholders to identify the highway and transport issues affecting the village of Burtonwood; and
 - 3.13.2 26 and 28 March 2015 (Stage 2) – this was a follow up public consultation with local people and stakeholders to obtain comment and buy-in to the proposals to address the concerns raised in Stage 1.
- 3.14 Though the Scheme was not specifically consulted on in isolation (there were many other issues being discussed) the need for a footpath was raised numerous times by many residents and by the local ward members, as a desired objective of the final strategy.

- 3.15 There was also a consultation exercise carried out in June/July 2016 as part of the preparation for the improvements to the J8 (M62) project. The need for improved cycling and walking links in this area was specifically mentioned in the consultation report and the public demanded progress on the Scheme.
- 3.16 In addition to the above, every time that the Council has held consultations or meetings in Burtonwood, the footpath issue has been mentioned. For example, the draft Local Plan consultation carried out in August 2018 included a public exhibition in Burtonwood and the footpath issue was raised again then.

Funding the scheme

- 3.17 Part of the planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) for the Omega Business Park [**appendix 6** to the Council's SoR] included a financial contribution for walking and cycling improvements in the area. This was in recognition that very few existing local roads have pavements, and that increasing traffic levels would make cycling on-road an unpleasant and dangerous experience.
- 3.18 However it was established that the level of contributions from the planning obligation would be insufficient to fund a new route in its entirety and therefore other funding sources would be required.
- 3.19 A bid was made to the Cheshire and Warrington Local Enterprise Partnership in July 2016 for several cycling projects across Warrington, including this Scheme. The business case was focussed on providing safe and sustainable access to the jobs and retail opportunities at the Gemini, Lingley Mere and Omega employment areas. The Scheme was included within the Cheshire and Warrington Growth Deal [**appendix 7** to the Council's SoR], which was approved in January 2017, and specific indicative approval for funding for this project was given by the Council in April 2018 [**appendix 8** to the Council's SoR].

Objectives of the Scheme

- 3.20 It follows from my points made above that there is a clear need for the Scheme for a number of safety, environmental and economic reasons, as well as meeting a very obvious public need for greater sustainable connectivity between the village of Burtonwood and the rest of Warrington.
- 3.21 The reasons for developing the Scheme relate to a set of defined strategic objectives as follows:
- 3.21.1 To improve the safety of pedestrians and cyclists using the route between Burtonwood and Omega by providing a segregated integral cycle track with a right of way on foot away from the highway;
 - 3.21.2 To provide better economic opportunities for residents by providing better non car access to the employment areas in north west Warrington;
 - 3.21.3 To improve the health of residents by allowing them to travel in a more sustainable manner;
 - 3.21.4 To improve the quality of life for residents by creating a more pleasant travelling environment; and

3.21.5 To provide environmental benefits by reducing carbon emissions, traffic pollutants and traffic noise as a result of the reduction in vehicular traffic and increase in people walking and cycling between Burtonwood and the rest of the Warrington Borough.

Alternatives to the Scheme

3.22 Warrington Borough Council considered a number of options to address the problem of a lack of an integral cycle track with a right of way on foot between Burtonwood and Omega. These are listed in Table 1 below (and were previously set out in the Council's Statement of Reasons).

Table 1

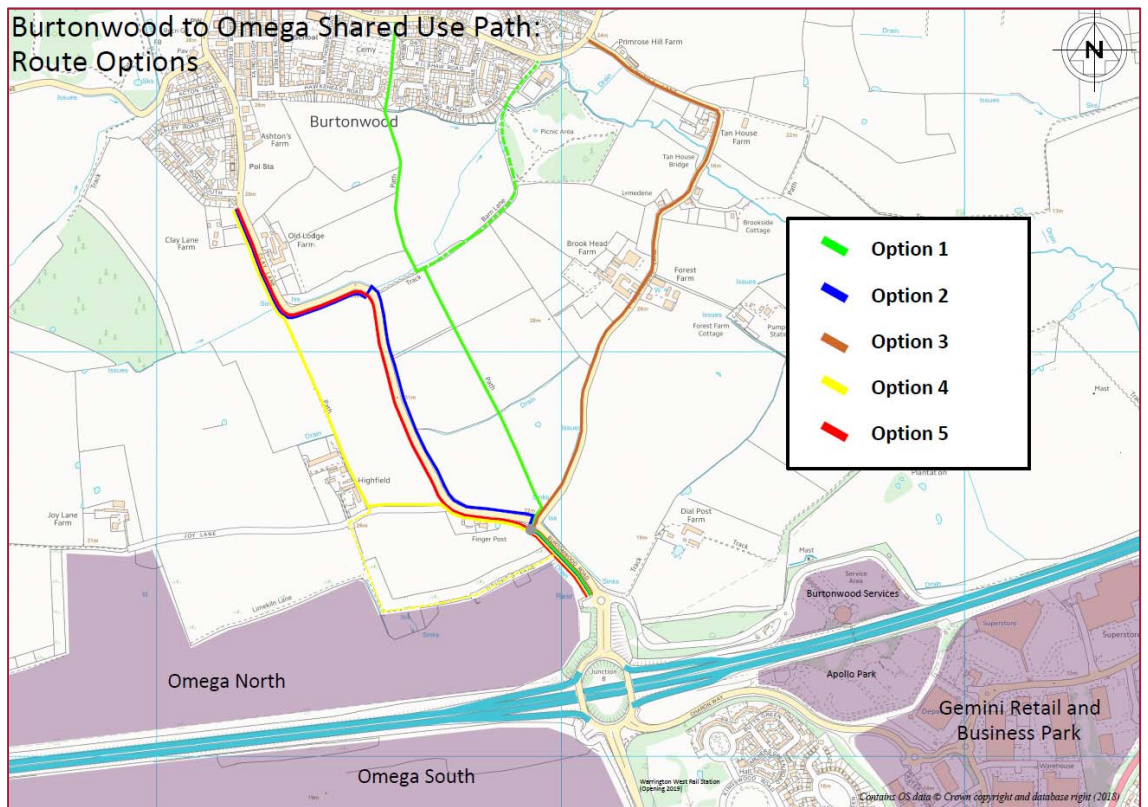
Options	Description	Comment
Do nothing	Allow residents to continue walking or cycling in the road or on the grass verge next to the traffic.	Not acceptable due to safety risks to public
Option 1	<p>Construct a new path across fields along line of Public Right of Way ("PROW") Footpath No. 28. This would start within the village on Chapel lane, cross the fields southwards and re-join the main road near Tan House Lane. At this point there would be a new pedestrian/cyclist crossing to take users to the west side of Burtonwood Road and thereon via a new path to the Omega network.</p> <p>As a variation to this route the first part of the path could utilise the northern section of Barn Lane, which starts on Chapel Lane near the Burtonwood community centre and extends southwest towards Clay Lane. The scheme would then pick up the PROW Footpath 28 (as described above), which runs southwards towards Tan House Road.</p> <p>This option would require land acquisition from the owners of the fields through which the footpath runs in order to create space for a 3.5m path together with a 2m buffer on each side, making a total width of 9m.</p>	<p>This option was rejected as:</p> <p>(a) There are personal security concerns for the users, especially at night on a remote path in the middle of a field. This was noted by consultees at the Burtonwood Transport Study consultation events. Both variations of this route would suffer from this specific impediment.</p> <p>(b) There are safety concerns due to the need for a new crossing of the main road near Tan House Lane.</p> <p>(c) The northern end of footpath 28 narrows to a 1m wide footpath constrained by housing development before emerging onto Chapel Lane. It is, therefore, not suitable for cycle usage. This prevents the option from meeting one of the primary objectives of the Scheme.</p> <p>(d) The new path would have to allow for large vehicle and machinery access to fields by the landowner, which would impact on its attractiveness as a safe and secure route by pedestrians and cyclists.</p>
Option 2	Construct a new path on the west side of Burtonwood Road from Omega to Tan House Lane, then switch across to	<p>This option was rejected as:</p> <p>(a) It does not provide a continuous</p>

Options	Description	Comment
	<p>the east side of the road with a new pedestrian/crossing. The path then continues north on the east side of Burtonwood Road until it reaches the entrance to Barn Lane. At this point, there is a new crossing to switch pedestrians and cyclists back to the west side of Clay Lane. The path continues along the west side until it reaches the village.</p> <p>This option would require land acquisition from landowners both on the north and south of Burtonwood Road and Clay Lane, in order to create the width necessary for a 3.5m path, plus 2m verge/buffer.</p>	<p>route and is therefore less attractive to the user.</p> <p>(b) It places the users' safety at risk as a result of having to undertake two separate crossings of a busy road.</p> <p>(c) The crossings would cause disruptions in the flow of traffic on Burtonwood Road/Clay Lane, causing delays and driver frustrations.</p>
Option 3	<p>Construct a new path adjacent to Farmers Lane and Tan House Lane, linking the east end of Burtonwood village to Burtonwood Road. A new crossing would be required at the Tan House Lane/Burtonwood Road junction to take pedestrians and cyclists to the existing paths on Burtonwood Road, near J8 of the M62.</p> <p>This option would require the acquisition of land adjacent to Farmers Lane and Tan House Road to create the space necessary for a 3.5m path plus 2m verge/buffer. It is likely that this option would require the path to switch sides repeatedly in order to avoid properties and mature trees.</p>	<p>This option was rejected as:</p> <p>(a) It is not on a desire line identified by villagers and would, therefore, be little used.</p> <p>(b) There are many difficult engineering obstacles to overcome in order to create a new path adjacent to this route.</p> <p>(c) There are safety concerns due to the need for a crossing of the main road near Tan House Lane and the several crossings required along Farmers Lane/Tan House Road.</p> <p>(d) The new crossings would cause disruptions in the flow of traffic on Burtonwood Road, causing delays and driver frustrations.</p>
Option 4	<p>Construct a new path on the west side of Clay Lane then utilise the footpath across the fields south towards the property known as Highfield. The route would then turn east to use Joy Lane and, thereafter, join Burtonwood Road and continue on the west side down to Omega.</p> <p>A variation of this option is to bear west after Highfield, along Joy Lane to its junction with Wrights Lane, and then follow Wrights Lane south, and</p>	<p>This option was rejected as:</p> <p>(a) There are personal security concerns for the users, especially at night on a remote path in the middle of the fields. This was noted by consultees at the Burtonwood Transport Study consultation events. Both variations of this route would suffer from this important issue.</p> <p>(b) The route is not direct and would,</p>

Options	Description	Comment
	<p>then east towards Burtonwood Road.</p> <p>Land would be required for the first part of the route across the fields between Clay Lane and Joy Lane. Land would also be required for the section of the route between Wrights Lane and Omega.</p>	<p>therefore, be less attractive to users.</p> <p>(c) The route across the fields would be crossed by agricultural vehicles, as there would be the need to reach the field adjacent to Clay Lane/Burtonwood Road.</p>
Option 5	<p>Improve and extend the existing highway by creating an integral cycle track with a right of way on foot on the west side of Burtonwood Road/Clay Lane from Omega to Burtonwood village.</p> <p>This option would require land to be acquired from the west side of Burtonwood Road/Clay Lane.</p>	<p>This is the preferred option as:</p> <p>(a) The path is continuous and, therefore, a faster and more attractive experience is created for the user.</p> <p>(b) It is safer as the path does not involve crossing the main road.</p> <p>(c) It is more secure as there is natural security provided by its proximity to the main road.</p> <p>(d) There is no impact on traffic flow on Burtonwood Road/Clay Lane.</p> <p>(e) Providing a safe and direct route for secondary school children between Burtonwood and Great Sankey high school would offer potential savings to the Council, as it may negate the need for school transport to be provided.</p>

3.23 The options presented in Table 1 above are illustrated on Figure 6.

Figure 6 - Route options for the Burtonwood to Omega shared use path



3.24 The conclusion from the above section is that the preferred scheme would be developed as described in Option 5, as this offers the best fit in terms of meeting the Scheme objectives.

4 DESCRIPTION OF THE SCHEME

- 4.1 This Section of my evidence describes the Scheme in terms of how it would look once constructed. My colleague, Keith Sanders, from the Council's Infrastructure Delivery Service, is the Scheme designer and his proof of evidence deals with the relevant aspects of the Scheme design where it is applicable to the objections received.
- 4.2 The improved highway with an integral cycle track with a right of way on foot is proposed to be constructed on the west side of Clay Lane and Burtonwood Road, between Burtonwood village and the roundabout at Junction 8 on the M62.
- 4.3 The improved highway with an integral cycle track with a right of way on foot would have the following characteristics:
- 4.3.1 It will be constructed as a 3.5 wide tarmac pavement in accordance with the Council's standard design for highway schemes;
 - 4.3.2 There will be the provision of new street lighting constructed to highway standard along the full route; and
 - 4.3.3 There will be drop kerb crossing points at Joy Lane and Wrights Lane.
- 4.4 The cross section of the integral cycle track with a right of way on foot [**appendix 9** to the Council's SoR] and therefore the width of the land required from third parties, would vary depending on the location along the route. The longest section, between Joy Lane and the entry point into Burtonwood village, would require a 7.5m width consisting of:
- 4.4.1 A 2m grass verge where utilities would be located;
 - 4.4.2 A 3.5m integral cycle track with a right of way on foot; and
 - 4.4.3 A further 2m verge to the edge of the boundary of the Scheme with the adjacent landowner.
- 4.5 The majority of the new integral cycle track with a right of way on foot will be constructed as per the typical cross section [**appendix 9** to the SoR]. This will consist of:
- 4.5.1 2.0m - 2.5m grass verge adjacent to the existing carriageway
 - 4.5.2 3.5m integral cycle track with a right of way on foot, draining towards the highway and bitmac construction with concrete edgings
 - 4.5.3 Topsoil to grade down towards existing fields (levels to be determined)
 - 4.5.4 Cut off land drain at toe of embankment
 - 4.5.5 Planting of new hedge at locations where hedges had to be removed to accommodate the integral cycle track with a right of way on foot
 - 4.5.6 New timber post and tensile wire fence along the boundary with private land ownerships in order to denote the highway boundary limit
- 4.6 Public Right of Way Footpath No. 25 currently connects with the existing highway and will continue to do so once the Scheme is constructed. Pedestrians will join and leave the footpath as they did before.

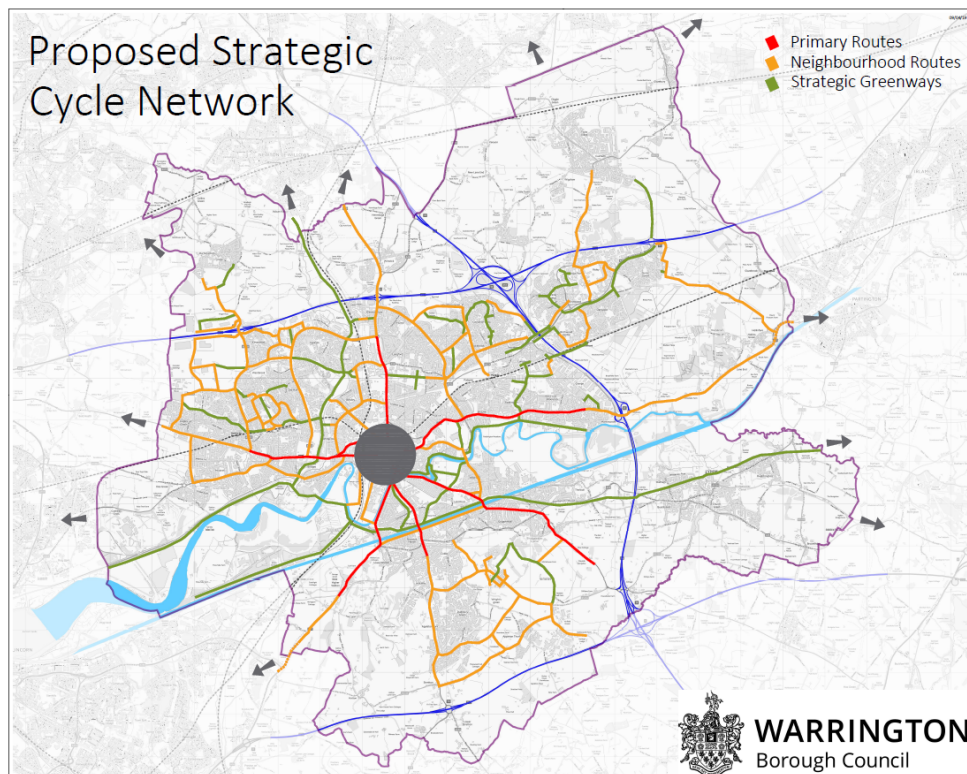
- 4.7 A number of private means of access along the route of the extended and improved highway will be set back as a result of the Scheme, but will continue to join the highway in the same locations.

5 TRANSPORT AND PLANNING POLICY

- 5.1 This section of my evidence considers the relevant national and local transport and planning policy and determines how those policies support the delivery of the Scheme.
- 5.2 The Statement of Reasons [**document 4** to the SoC] explains in detail how at both a strategic and local planning policy level there is a strong justification for the Scheme. This planning policy consideration has not been disputed or challenged during the Order making process and in the run up to the inquiry. The main points are summarised below:
- 5.3 The National Planning Policy Framework ("NPPF") published in 2019 sets out the Government's planning policies for England and how they are expected to be applied. At the heart of the NPPF is a presumption in favour of sustainable development. There is a very strong emphasis on sustainable transport. Chapter 9 states that planning policies should "provide for high quality walking and cycling networks and supporting facilities such as cycle parking drawing on Local Cycling and Walking Infrastructure Plans ("LCWIPs").
- 5.4 The National Cycling and Walking Investment Strategy ("CWIS") published in 2017 sets out the Government's ambition to:
- "...make cycling and walking the natural choice for shorter journeys, or as part of a longer journey"*
- 5.5 Local authorities are expected to support the CWIS by developing and delivering their own walking and cycling schemes, and these should be described in Local Cycling and Walking Infrastructure Plans (LCWIPs). Warrington has produced its own LCWIP, which is further described in the Council's Statement of Reasons [**document 4** to the SoC].
- 5.6 The Scheme clearly meets the Government objectives, as it meets the safety and mobility objectives of the CWIS, and it is designed for people rather than for vehicles.
- 5.7 The Warrington Local Transport Plan ("LTP") helps address local transport issues by:
- 5.7.1 Providing a framework for decisions on future investment;
 - 5.7.2 Setting objectives for transport to support our wider goals and ambitions;
 - 5.7.3 Establishing policies to help us achieve these objectives; and
 - 5.7.4 Containing plans for implementing these policies.
- 5.8 Warrington's current Local Transport Plan (LTP3), was adopted in March 2011 and this sets out Warrington's Local Transport Plan Strategy for the period 2011-2030. Its vision is that:
- "...by 2030, Warrington will be recognised as one of the best places to live and work in the UK, where everyone enjoys an outstanding quality of life."*
- 5.9 Active travel is one of the seven key themes in the LTP, and its key challenges for active travel include:
- 5.9.1 Creating and promoting a cycle network that will encourage more people to cycle; and

- 5.9.2 Working with partners to facilitate and encourage travel to employment sites and other services by active modes.
- 5.10 The Council has drafted its fourth Local Transport Plan (LTP4) for the period 2019 to 2040, which reviewed its local transport policies to make sure that they reflect Government and local priorities, as well as growth aspirations, new technologies and the priorities of the Local Enterprise Partnership. The new document places even greater emphasis on sustainable transport as this is seen to be a key element of the transformation strategy to improve travel within Warrington.
- 5.11 A comprehensive public consultation exercise took place in May and June 2019 to seek public and stakeholder views of the draft LTP4 and its supporting documents. Over 70% of respondents gave their support for the cycling and walking proposals with many positive comments made about the need to deliver the proposed programme of schemes as soon as possible. These comments included specific support for the Omega to Burtonwood Scheme.
- 5.12 The draft LTP4 is scheduled to be approved at Cabinet in December 2019. I append to this proof of evidence the extracts of draft LTP4 that are relevant to the Scheme [Appendix 1].
- 5.13 The Warrington Local Cycling and Walking Infrastructure Plan ("LCWIPs"), provides a ten year plan for developing the Warrington cycling and walking network and forms an important part of the Local Transport Plan.
- 5.14 The Warrington LCWIP has identified an aspirational network which is made up of greenways, neighbourhood routes and primary routes as shown in Figure 7. The Omega to Burtonwood scheme would be a neighbourhood route linking the village of Burtonwood to the rest of Warrington.

Figure 7 – Proposed Strategic Cycle Network for Warrington



Growth Agenda

- 5.15 As set out in the Council's Statement of Reasons [**document 4** to the SoC], the Scheme is compliant with key policy documents at the sub-regional level that are driving the need for increased economic growth, including:
- 5.15.1 Cheshire and Warrington Matters – a Strategic Economic Plan and Growth Plan for Cheshire and Warrington LEP [**appendix 10** to the Council's SoR]; and
 - 5.15.2 Cheshire and Warrington Growth Deal [**appendix 7** to the Council's SoR].

Other Non-Transport Local Strategies

- 5.16 The Council's Statement of Reasons also sets out how the Scheme could contribute to the Acquiring Authority's non-transport local strategic aspirations, including reference to the following key policy documents:
- 5.16.1 Warrington Borough Council Corporate Strategy (2018-20) [**appendix 12** to the Council's SoR];
 - 5.16.2 Warrington Local Plan Core Strategy (2014) (relevant policies referred to in the Council's Statement of Reasons);
 - 5.16.3 Warrington Means Business (2017) [**appendix 13** to the Council's SoR];
 - 5.16.4 Health and Wellbeing strategy (2015-18) [**appendix 14** to the Council's SoR]; and
 - 5.16.5 Air Quality Action Plan (2018) [**appendix 15** to the Council's SoR]

Planning Consent

- 5.17 It has been confirmed that under Schedule 2, Part 9 of the Town and Country Planning (General Permitted Development (England) Order 2015 ("the GPDO") the proposed works required to deliver the Scheme meet the criteria for Class A permitted development. Class A prescribes that development will be permitted where it constitutes development carried 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 Act; 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."

- 5.18 The Council is the Local Highway Authority for the Borough of Warrington. Burtonwood Road and Clay Lane are existing highways and the improvements described in section 4 adjoin the existing highway boundary. The Scheme is to extend and improve the existing highway in order to incorporate an integral cycle track with a right of way on foot as part of improved Burtonwood Road/Clay Lane. As such, the Scheme clearly falls within the provisions of the GPDO.
- 5.19 In accordance with the GPDO, the Scheme does not require planning permission; however, for completeness, the Acquiring Authority submitted an application for a Certificate of Lawfulness of Proposed Use or Development ("CLOPUD") under Section

192 of the Town and Country Planning Act 1990 (as amended), which was granted on 2 May 2019 [**document 10** to the SoC].

Summary

- 5.20 In summary, the Scheme is supported by national and local strategies and policies at all levels and does not require planning permission. As such, it is my professional opinion that there are no planning impediments to the Scheme.

6 OBJECTIONS TO THE ORDER

6.1 The Secretary of State received three objections to the Order, as referenced in Section 12 of the Council's Statement of Case. Following submission of the Council's Statement of Case, the objection from Mr Holding and Ms Wilson was formally withdrawn on 1 October 2019 [**Appendix 2**] and so this objection is not considered further in this proof of evidence. At the time of writing, the other two objections ("the Objections") remain, with one being a statutory objection ("the Statutory Objection") and one being a non-statutory objection ("the Non-Statutory Objection").

6.2 I have set out in the following paragraphs a summary of the grounds of the Objections relevant to my evidence.

Shun Kai Ye and Liu Jiao Ye – Plots 1 and 1a [document 19 to the Council's SoC]

6.3 The objection on behalf of the Ye family relates to Plot 1 and Plot 1a (it should be noted that Plot 2 is also a part of the Ye family ownership but is referenced in the Order Schedule under a name that is not quoted in the objection – as such, the Council has drawn the conclusion that the objection relates to Plot 1 and Plot 1a only).

6.4 The objection is on the basis of the need for reinstatement works and contends that the Scheme could be achieved without affecting the Ye family land ownership. This largely relates to a pond in situ on the site and the removal of a boundary hedge, which currently has a privacy and security value to the Ye family. As confirmed in the proof of evidence of Kate Okell, despite the Council seeking clarity on the issue, no information has been provided to the Council by the Ye family or their agent as to other proposals which do not impact their land ownership at all. Details on the land negotiations process and progress associated with the Ye family objection is provided in the Proof of Evidence by Kate Okell.

6.5 As set out in the proof of evidence of Keith Sanders, a proposal has been made to the Ye Family to amend the alignment of the Scheme by reducing land take so as not to impact the pond. The Council has confirmed that the pond can be avoided and have provided new plans showing the revised land-take [**document 7** to the SoC]. In addition a proposal has been made to the Ye family to provide a replacement "instant hedge" to meet their needs. At the time of preparing this proof of evidence, no confirmation of agreement to either proposal has been received from the Ye family but the Council continues to try to reach a conclusion on this matter and is seeking confirmation of the Order subject to modification Scheme in any event.

6.6 I would refute the claim that Scheme could be achieved without affecting the land ownership of the Ye Family. I have already established in section 4 that the selected route is the best route from several options and I have provided the reasons for this decision. It is regrettable that some land would need to be acquired from the Ye family but I believe that the amount of land required is a very small proportion of their overall land holding, and would have a minimal impact on their smallholding activities. The Council has already offered considerable mitigation in terms of changes to the design to minimise the impact to their privacy and security and, in this respect, it is my professional opinion that the Council has acted reasonably, accommodating the Ye family's concerns and modifying the Scheme to mitigate the impact.

6.7 In addition, I would like to make the point that the Scheme offers two important benefits to the Ye family. First, the setting back of the access point to their property would considerably improve the sight lines onto Clay Lane so that exiting the property would

be much safer. Second, the creation of a path alongside Clay Lane would allow safer access by foot or bike into Burtonwood village from their property.

Alexander Abbey

- 6.8 Mr Abbey is a non-statutory objector [**document 21** to the SoC]. On sending the objection to the Council, the National Transport Casework Team advised that Mr Abbey had been informed that only points 3 and 4 of his objection, regarding the effect of the Scheme on local public transport and the resulting effect on access to schools and housing, would be considered by the Secretary of State.
- 6.9 The two points of objection that the Secretary of State has directed shall be addressed are:
- 6.9.1 *"The scheme will allow the council to remove transport to the local secondary school for pupils from the village and beyond. This will result in the further costs to young families wishing to set up home to the sum of a minimum of £350 per pupil per year, the current cost of a bus pass for students in the town. It will also remove the direct feeder school status for the local primary school to one of the best schools in the town. With rapid development around Great Sankey High School, parents will be left with no bus, no direct access to secondary schooling and the possibility of children being sent all over Warrington for their secondary education. Also there is a very real possibility that families will have siblings at various schools across the borough."*
- 6.9.2 *"The village has an aging population with little to encourage inward migration from other areas of the town. This path will further discourage young families from migrating into the village as school access is sited as a main reason that house prices in the village are significantly suppressed."*
- 6.10 In relation to the first ground of objection, Mr Abbey claims that the Scheme will allow the Council to remove transport to the local secondary school for pupils from the village and beyond. This is not strictly speaking correct as the Council does not directly operate the bus service. This bus service is a commercial one operated by Hilton's Travel and it links the Burtonwood area to Great Sankey High School and Hope Academy. The Council uses this service to transport students who qualify for free transport, by issuing bus passes and paying the fares for them directly to the operator. If the number of eligible students making this trip reduced then based on the current data, the Council still believes that there is an overwhelming likelihood that the service would remain. It is worth noting that this service to Great Sankey High School also accommodates some pupils from the St Helens and Newton-le-Willows areas. As these pupils live outside of the Warrington Borough Council boundary then they are all paying for their bus travel and this income helps to maintain the viability of the bus service.
- 6.11 The legislative and policy criteria for the availability of paid school bus travel, together with a consideration of the impact of the Scheme on school students and the direct feeder status of Burtonwood Primary School to Great Sankey High School, is set out in more detail in the proof of evidence of Catherine Thompson.
- 6.12 The Scheme makes a very limited difference to the current school travel situation and has the added benefit of opening up a safe walking and cycling route.

- 6.13 The second ground of objection relates to Mr Abbey's claim that the Scheme, and its impact on school travel, will further discourage young families from migrating into the village, as school access is cited as a main reason that house prices in the village are significantly suppressed. This ground of objection is completely inconsistent with Mr Abbey's first ground of objection. School access will be improved as a result of the Scheme, as there is no impact on the bus service and the Scheme makes the access by foot and cycle along Burtonwood Road and Clay Lane safer and more attractive. A Scheme for a cycleway with an integral right of way on foot is not going to detrimentally impact house prices in the area; this is determined by other factors in the market.

Conclusion

- 6.14 In summary, it is my professional opinion that the Statutory Objection is able to be addressed through negotiation, and the Council (through its appointed agents, Axis Property Consultancy) is making continued efforts to do so, which it anticipates will result in the withdrawal of the remaining objection. In relation to the Non Statutory Objection, the Acquiring Authority has fully considered the benefits of the Scheme, has considered alternative schemes, and has clearly come to the conclusion on the basis of its scheme objectives for public safety and its public consultation that the Scheme is needed in the location required. As such, it is my professional opinion that the Order Land is required and that there is a compelling case in the public interest for the use of compulsory purchase powers.

7 CONCLUSION AND JUSTIFICATION FOR USE OF COMPULSORY PURCHASE POWERS

- 7.1 The Scheme is a direct response to requests by people living in Burtonwood village. There has been previous ad hoc calls for an improved path, but this was confirmed during the consultation for the Burtonwood Transportation Study carried out in 2014/2015, as detailed in this proof of evidence and in the Council's Statement of Reasons, Statement of Case, and in paragraphs 3.13 to 3.16 of this proof of evidence.
- 7.2 As I have explained at paragraph 3.5 of this proof of evidence, there is no existing path for pedestrians or cyclists, and they must use the road or grass verge to travel between Burtonwood and Warrington. The route carries over 6,000 vehicles a day at Clay Lane and this number is higher (over 10,000 a day) south of the junction with Tan House Lane. It is, therefore, a very unpleasant experience for people to walk and cycle.
- 7.3 A package of funding for the Scheme has been obtained from the planning obligations for the Omega development in North Warrington, from a bid to the Local Growth Fund managed by the Cheshire and Warrington Local Enterprise Partnership, and from the Council's highway capital programme. In each case, there was a strong and accepted justification for the need of this Scheme. The combined budget is around £1.6m.
- 7.4 Several options for the Scheme were considered, all of which would have required some land acquisition. The Scheme requires 13 separate land plots owned by six different owners. Though acquisition of the land by negotiation is preferred and is being actively pursued by the Council, it is accepted that this is not always successful. Powers of compulsory purchase will only be used as a matter of last resort to deliver the very real public benefits of the Scheme in the absence of agreement, taking into account the requirement to deliver the Scheme within a reasonable timeframe.
- 7.5 The Proof of Evidence from Kate Okell explains the land acquisition process and provides more details on each of the land plots required for the Scheme.
- 7.6 The two remaining objections to the Order are not ones that I believe should prevent the Scheme from being constructed, nor the Order confirmed. In the case of the objection from the Ye family, I believe that the Council has addressed all of their concerns (as described further in the proofs of evidence of Kate Okell and Keith Sanders) and that they would, in turn, receive a direct benefit from the Scheme in terms of improved access and road safety. In the case of the non-statutory objection from Mr Abbey regarding the risk to school travel to Great Sankey High School, the proof of evidence of Catherine Thompson demonstrates that there is a minimal travel impact on school students, that the Council will continue to apply national and local legislation and guidance, that the Scheme will not discourage people moving to Burtonwood, and that the feeder status of Burtonwood Primary School will not change as a result of the Scheme.
- 7.7 In conclusion, it is my professional opinion that neither of the objections have sufficient weight to justify refusal to confirm the Order. The Acquiring Authority has fully considered the benefits of the Scheme, has considered alternative schemes, and has come to the conclusion on the basis of public need that the Scheme is required to provide a safe and direct walking and cycling route for the people of Burtonwood village, and wider afield. As such, the Acquiring Authority considers that the Order Land is required and that there is a compelling case in the public interest for the use of compulsory purchase powers.

8 STATEMENT OF TRUTH AND DECLARATION

- 8.1 I confirm that, insofar, as the facts stated in my proof evidence are within my own knowledge, I have made clear what they are and I believe them to be true and that the opinion I have expressed represent my true and complete professional opinion.
- 8.2 I confirm that my proof of evidence includes all facts that I regard as being relevant to the opinions that I have expressed and that attention to drawn to any matter which would affect the validity of those opinions
- 8.3 I confirm that my duty to the Inquiry as an expert witness overrides any duty to those instructing or paying me, and I have understood this duty and complied with it in giving my evidence impartially and objectively, and I will continue to comply with that duty as required.
- 8.4 I confirm that, in preparing this proof of evidence, I have assumed that same duty that would apply to me when giving my expert opinion in a court of law under oath or affirmation. I confirm that this duty overrides any duty to those instructing or pay me, and I have understood this duty and complied with it in giving my evidence impartially and objectively, and I will continue to comply with that duty as required.
- 8.5 I confirm that I have no conflicts of interest of any kind other than those already disclosed in this proof of evidence.

JOHN NICHOL

October 2019