

# **Statement of Reasons**

Highways Act 1980

Acquisition of Land Act 1981

**The Warrington Borough Council (Omega to  
Burtonwood Accessibility Improvements)  
Compulsory Purchase Order 2019**

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

## STATEMENT OF REASONS FOR MAKING THE COMPULSORY PURCHASE ORDER

### 1. INTRODUCTION

- 1.1 This is the Statement of Reasons (the "Statement") of Warrington Borough Council (the "Acquiring Authority" and "the Council") to support the making of The Warrington Borough Council (Omega to Burtonwood Accessibility Improvements) Compulsory Purchase Order 2019 (the "Order").
- 1.2 In preparing this Statement, the Acquiring Authority has endeavoured to provide sufficient information so that its reasons for making the Order can be properly understood.
- 1.3 This Statement has been prepared in accordance with:
  - 1.3.1 Department for Communities and Local Government "Guidance on Compulsory purchase process and the Crichel Down Rules" (February 2018) ("the Guidance");
  - 1.3.2 Department of Transport Circular 1/97 "Highways Act 1980: Orders Under Section 14 of the Highways Act 1980 and Opposed Orders Under Section 124 of that Act" (June 1997); and
  - 1.3.3 Department of Transport Circular 2/97 "Notes on the Preparation, Drafting and Submission of Compulsory Purchase Orders for Highway Schemes and Car Parks for which the Secretary of State for Transport is the Confirming Authority" (June 1997).
- 1.4 The Acquiring Authority's purpose in seeking to make the Order is to facilitate the extension and improvement of the existing highway along Burtonwood Road and Clay Lane between the village of Burtonwood and the Omega North development, in order to incorporate an integral cycle track with a right of way on foot as part of the improved Burtonwood Road/Clay Lane (the "Scheme").
- 1.5 The Acquiring Authority considers the proposed Scheme to be of significant importance because it will provide a new, safe and direct path suitable for pedestrians, cyclists and people with disabilities, where no path currently exists.
- 1.6 The land proposed to be compulsorily acquired under the Order ("the Order Land") covers an area of land adjacent to Clay Lane and Burtonwood Road, with a total area of 8,642 sq.m.
- 1.7 The full extent of land to be acquired is set out in greater detail in Section 8, and identified on the map accompanying the Order (the "Order Map") at Appendix 1. The land required for the entirety of the Scheme, including but not limited to the Order Land, is referred to throughout this Statement as the Site and is identified on the Site Plan appended at Appendix 2.

- 1.8 On 8 October 2018, the Executive Board of the Acquiring Authority resolved to make the Order (Appendix 3), reserving to officers delegated powers to refine the Order and its associated ancillary documents. The Acquiring Authority has been making steps to acquire the land needed by private treaty agreement and, whilst doing this, has retained in reserve the ability to bring forward compulsory purchase powers, should they be needed as a matter of last resort. Given the need to facilitate the Scheme coming forward to meet the Local Growth Fund ("LGF3") funding deadline of March 2021, it has now become apparent that the Order must be progressed in parallel to ongoing negotiations, and subsequently submitted for confirmation to the Secretary of State for Transport ("the Secretary of State"), in order to facilitate the construction of the Scheme.
- 1.9 In reaching the decision to make the Order, the Acquiring Authority has had full regard to the Human Rights Act 1998 and is satisfied that any interference is reasonable and proportionate. Human rights issues are dealt with in detail in Section 11 of this Statement.
- 1.10 Department of Transport Circular 2/97 provides guidance on compulsory purchase orders for highway schemes and states that the Secretary of State will not confirm a compulsory purchase order until he is satisfied that planning permission for the scheme, to which the order relates, has been granted. As the Scheme is on land adjacent to the highway, the development would be permitted development under Schedule 2 Part 9 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and, as such, express planning permission would not be required for the Scheme.
- 1.11 The Order seeks to acquire all legal interests in the land coloured pink on the Order Map as specified in the Schedule to the Order ("the Order Schedule"), which is appended at Appendix 4.
- 1.12 The Acquiring Authority is satisfied that the implementation of the Scheme requires the acquisition of the land, as set out in the Order, Order Map and Order Schedule. The Acquiring Authority has made the Order to facilitate the implementation of the Scheme. The Acquiring Authority has sought to notify all of those who have an interest in the Order Land and to acquire all of these interests by agreement where possible. In this case, compulsory purchase powers are being pursued in order to secure the delivery of the Scheme within the LGF3 funding deadline.
- 1.13 In summary, this Statement:
- 1.13.1 identifies the statutory powers under which the Order is made (Section 2);
  - 1.13.2 sets out the local context and background to the Scheme (Section 3);
  - 1.13.3 provides details of the Site and a description of the Scheme (Section 4);
  - 1.13.4 sets out the alternatives to the Scheme that have been considered (Section 5);

- 1.13.5 describes the current planning position and strategic support for the Scheme (Section 6);
- 1.13.6 describes any relevant environmental considerations (Section 7);
- 1.13.7 describes the Order Land (Section 8);
- 1.13.8 explains the need for the Order together with details of negotiations with landowners (Section 9);
- 1.13.9 sets out how the Scheme is to be financed and timescales for implementation (Section 10);
- 1.13.10 deals with Human Rights issues (Section 11);
- 1.13.11 sets out the Related Orders and Special Category Land (Section 12); and
- 1.13.12 sets out the arrangements for the inspection of documents and contact details for further information (Section 13).

## 2. STATUTORY POWERS UNDER WHICH THE ORDER IS MADE

- 2.1 The Guidance published by the Ministry of Housing, Communities and Local Government in February 2018 provides the latest advice in connection with the use of compulsory purchase powers.
- 2.2 In accordance with the Guidance, the purpose for which an authority seeks to acquire land will determine the statutory power under which compulsory purchase is sought. Paragraph 11 advises that acquiring authorities should look to use *'the most specific power available for the purpose in mind, and only use a general power when a specific power is not available.'*
- 2.3 The Acquiring Authority has been seeking to negotiate the acquisition of the legal interests in the Site required for the proposed Scheme by agreement; however, a substantial part of the Site is still within private ownership and negotiations have not been fruitful to date. The Acquiring Authority is, therefore, seeking to utilise its powers under Sections 239, 240, 246 and 260 of the Highways Act 1980 (the "1980 Act") and Section 3 of and Schedules 2 and 3 to the Acquisition of Land Act 1981, for the acquisition of all of the remaining interests in the Order Land, required to facilitate the improvement of the highway.
- 2.4 Sections 239 and 240 relate to general powers of highway authorities to acquire land for the construction and improvement of highways. Section 246 provides a power to acquire land for mitigating the adverse effects of constructing or improving highways. Section 260 relates to the clearance of title to land acquired for statutory purposes.
- 2.5 The powers in the 1980 Act enable the Acquiring Authority to acquire land and new rights compulsorily for the following purposes:
- 2.5.1 the extension of existing highway to form a new 3.5m wide tarmac integral cycle track with a right of way on foot for shared use by pedestrians, cyclists and people with disabilities, together with a 2m grass verge, on the west side of Burtonwood Road and Clay Lane between the southern end of Burtonwood village and just north of the junction with Limekiln Lane;
  - 2.5.2 the use of land in connection with the extended and improved Burtonwood Road/Clay Lane;
  - 2.5.3 the carrying out of drainage works in connection with the extension of the existing highway to form the new integral cycle track with a right of way on foot; and
  - 2.5.4 the mitigation of any adverse effects as a result of the existence or use of any highway proposed to be extended and improved by the Acquiring Authority.
- 2.6 In accordance with paragraph 2 of the Guidance, the Acquiring Authority is using its powers to compulsorily acquire the remaining interests as a matter of last resort, and efforts to acquire interests by private treaty will continue in parallel with this process

during the course of the compulsory purchase order process, right up to implementation of any confirmed compulsory purchase powers.

- 2.7 Having regard to the nature of the proposals and the advice set out in the Guidance, the Acquiring Authority is satisfied that the powers available to it under the 1980 Act are the most appropriate powers to use in order to achieve its objectives.
- 2.8 The Acquiring Authority has taken full account of the Guidance in making this Order.

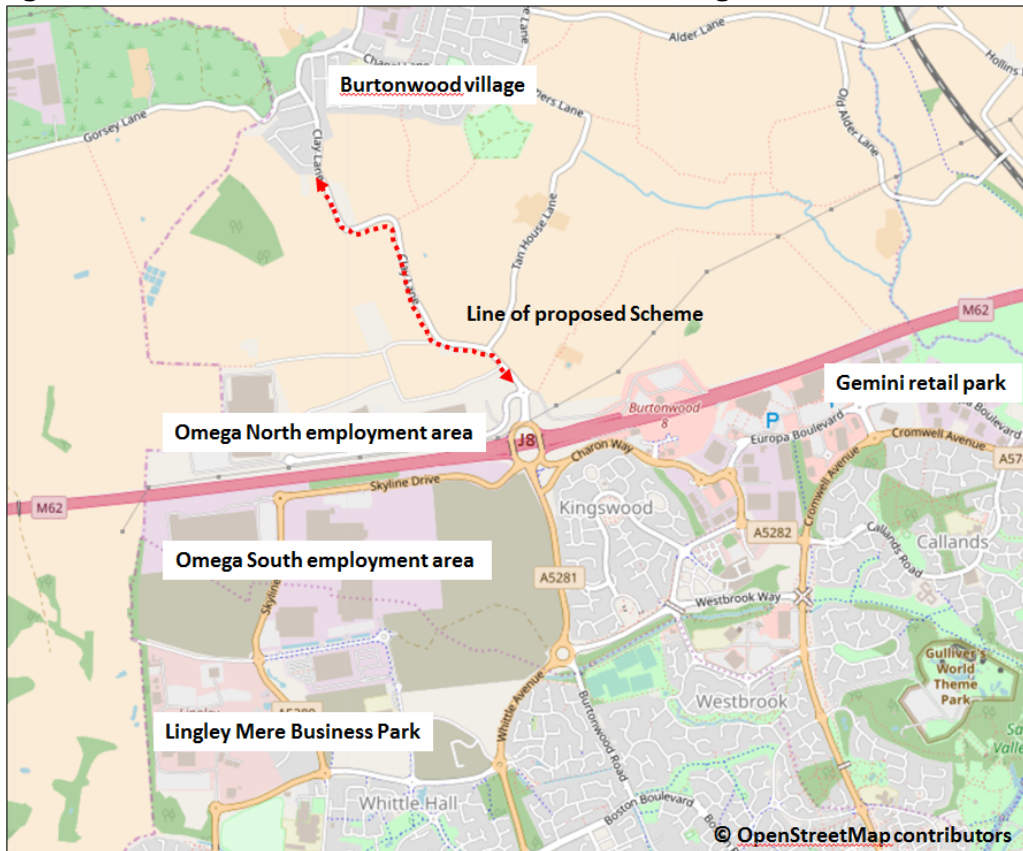
### **Incorporation of the Mining Code into the Order**

- 2.9 The Order incorporates the mining code ("the Mining Code") contained in Parts 2 and 3 of Schedule 2 of the Acquisition of Land Act 1981, and applied by Section 3 of that Act. Given that the Scheme is an extension and improvement of existing highway, there is no new construction that necessitates entry into subsoil. As such, the Order does not seek to compulsorily acquire subsoil and/or mineral interests.
- 2.10 Paragraphs 191 and 192 of the Guidance state that the Mining Code should not be incorporated automatically or indiscriminately, as this may lead to the sterilisation of minerals, including coal reserves. Acquiring authorities are asked to consider the matter carefully before including the Mining Code, having regard to the existence of statutory rights of compensation or whether repair might provide an adequate remedy in the event of damage to land, buildings or works occasioned by mining subsidence.
- 2.11 Incorporation of the Mining Code within an order, thereby engaging Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981, provides for the purchase of the surface only of the Order Land without the underlying minerals, avoiding sterilisation of the minerals whilst providing a degree of protection for the Acquiring Authority and allowing the Scheme to be taken forward. By incorporating the Mining Code, the Acquiring Authority can take steps to prevent the working of minerals within a specified distance of the surface, provided compensation is paid.
- 2.12 The Acquiring Authority has had regard to the advice contained in the Guidance in preparing the Order and considers that in the circumstances of this case, where compensation and repair of damage would not be adequate in view of the public use and nature of the Scheme, together with the potential traffic implications and disruption that might occur if the mines and minerals within the Order Land were to be worked and such damage were to occur, it is appropriate to incorporate the Mining Code.

### 3. LOCAL CONTEXT AND BACKGROUND TO THE SCHEME

- 3.1 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.
- 3.2 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 office. Collectively these three sites employ over 14,000 people. These are shown in Figure 1.

**Figure 1 - Location of Scheme in North West Warrington**



- 3.3 The development of the Gemini retail park and the rapid expansion of the Omega employment area have meant that there is an increase in the number of people from Burtonwood wishing to access these locations and take advantage of the jobs and services on offer.
- 3.4 Burtonwood Transport Study carried out in May 2015 ("the Transport Study") (Appendix 5), found that there was a strong demand for people wishing to walk or cycle between Burtonwood and Omega/Gemini; however, Clay Lane and Burtonwood Road are both rural roads with no footpaths or cycleways, and several tight bends. The speed limit is 60mph for most of its length. It is, therefore, an unpleasant and dangerous route, which is a deterrent to anyone wishing to walk and/or cycle along its length.
- 3.5 Part of the planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) for the Omega Business Park (detailed further at



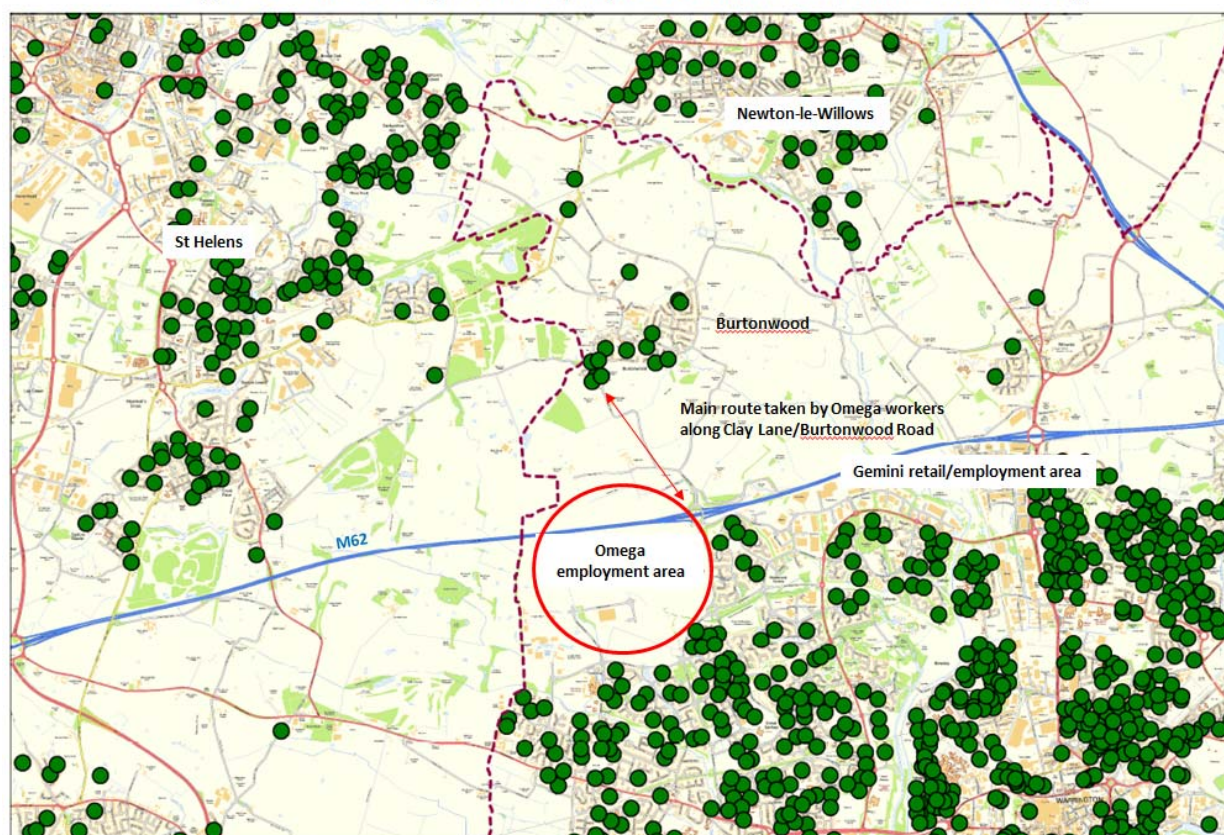
paragraph 10.7) (Appendix 6) included a financial contribution for walking and cycling improvements in the area. This was in recognition that very few existing local roads have pavements, and that increasing traffic levels would make cycling an unpleasant and dangerous experience.

- 3.6 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), 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).

### Jobs and the journey to work

- 3.7 There are over 14,000 jobs based at the Lingley Mere, Gemini, and Omega employment areas. Figure 2 provides a home postcode plot of the staff working at Hermes, Travis Perkins, Brakes, Amazon, and The Hut Group, which are all located within the Omega employment area. This shows that some Burtonwood residents currently work at those companies. The travel surveys carried out of staff working at the companies show that most of the workers drive, around 5 workers walk, and 50 people cycle.

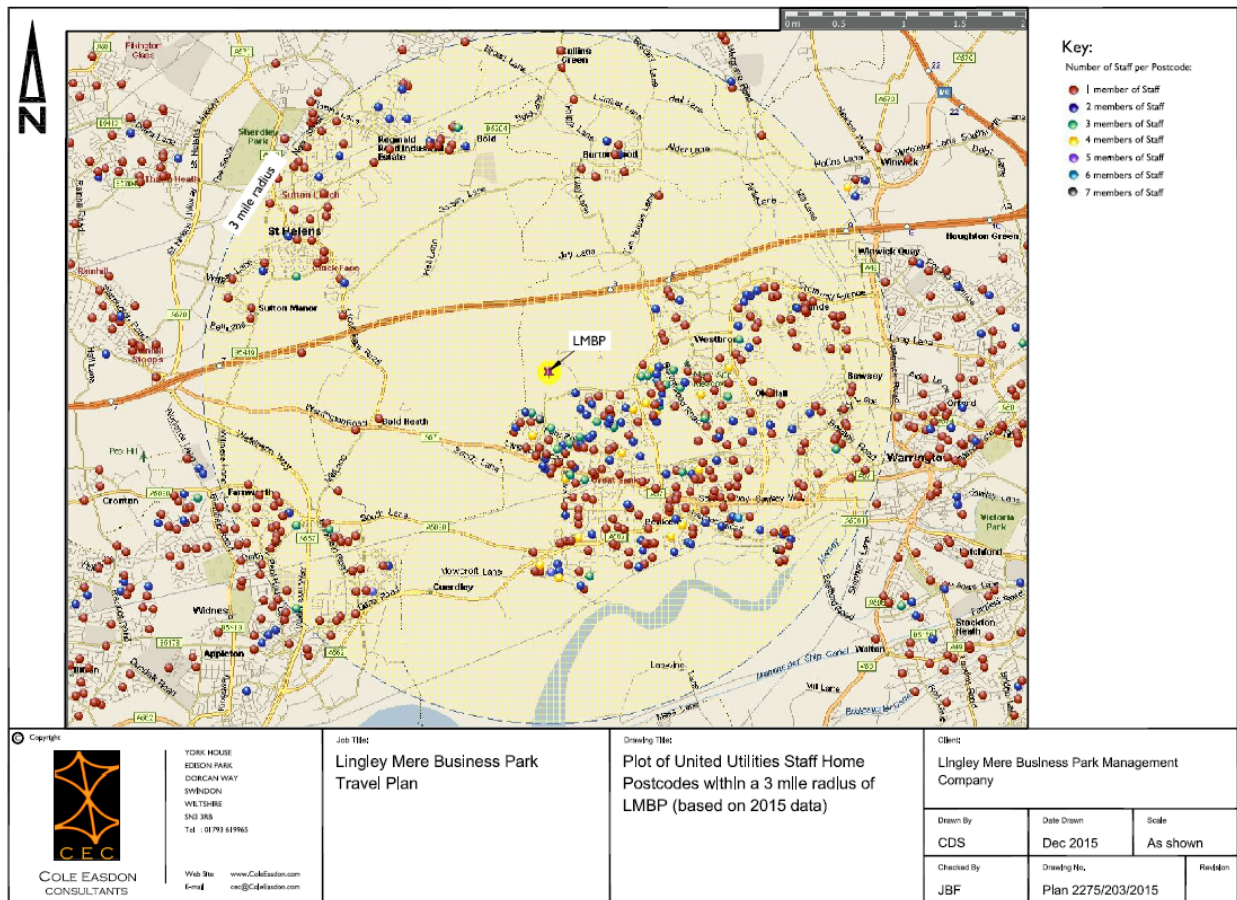
Figure 2 - Postcode plot of employees based on North and South Omega



- 3.8 Figure 3 shows a home postcode plot for staff based at the United Utilities office at Lingley Mere. Again, this 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 3 - Postcode plot of employees based at United Utilities office, Lingley Mere**

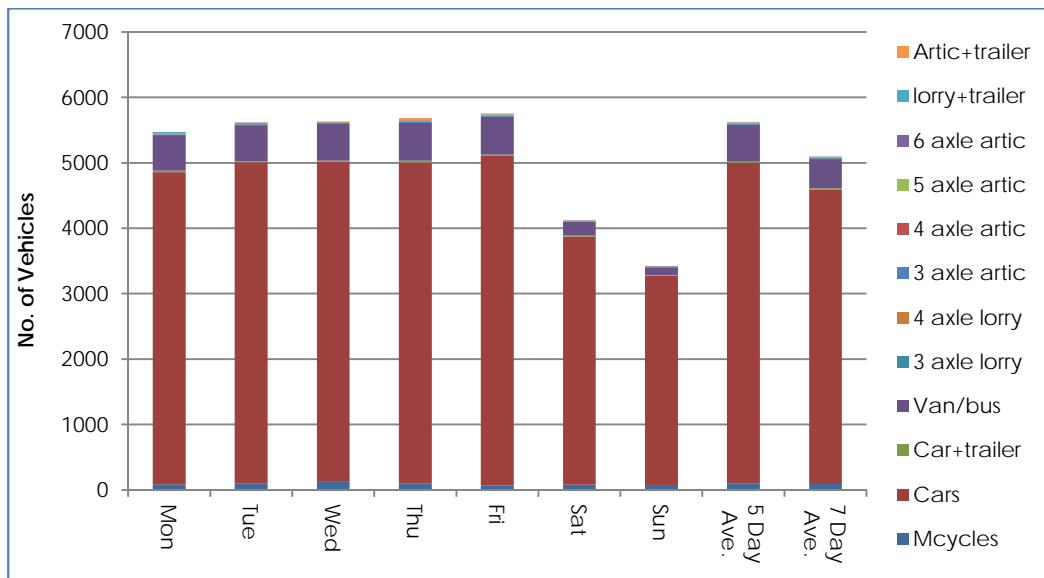


3.9 There is limited equivalent data for people who work at Gemini, but the public consultation events that informed the Transport Study (Appendix 5) revealed that there are many people who work at Gemini and who have a desire to travel in a more sustainable and safe way. Their main reason for not walking or cycling to work was 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 speeds at which that traffic utilises the route.

### Traffic flows and speeds

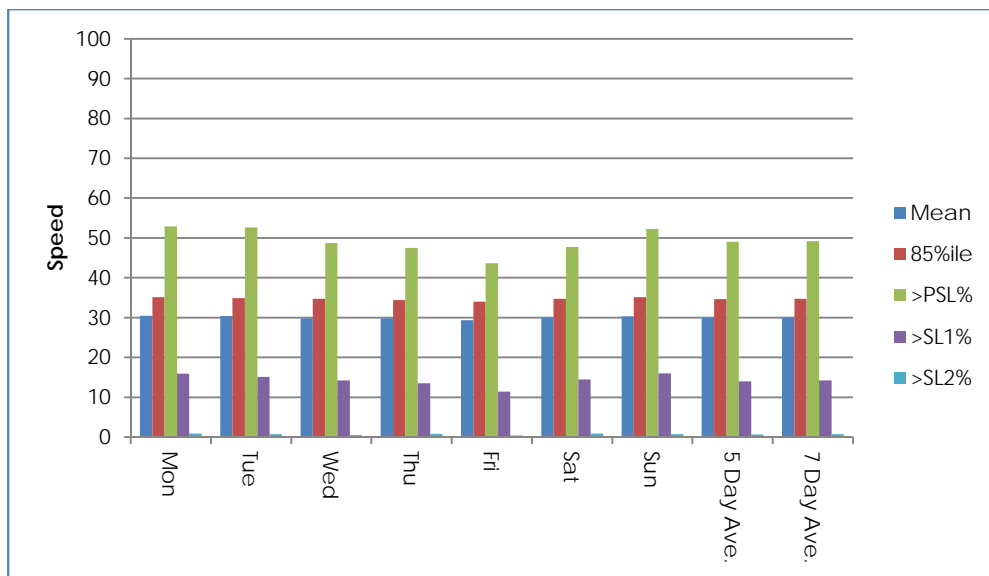
3.10 The road between Burtonwood and Junction 8 carries a much higher level of traffic than usual for its type. Figure 4 shows the two-way traffic flows on Clay Lane from August 2013 based on traffic data collected for the 2015 Burtonwood Transport Study. At over 5,500 vehicles per day, this is similar to traffic levels recorded for some A or B class roads in Warrington. There is also a significant number of larger vehicles, particularly articulated lorries, that use this road.

**Figure 4 - Traffic count data for Clay Lane**



3.11 Figure 5 from the same surveys shows that the average speeds along Clay Lane and Burtonwood Road are higher than expected on a road of this type. This creates a dangerous and unpleasant environment for anyone trying to walk or cycle along this section of highway.

**Figure 5 - Traffic speed data for Clay Lane**



#### **4. LOCATION AND DESCRIPTION OF THE SITE AND THE SCHEME**

- 4.1 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 11 on the M62 as shown in figure 1.
- 4.2 The improved highway with an integral cycle track with a right of way on foot would have the following characteristics:
- 4.2.1 it will be constructed as a 3.5 wide tarmac pavement in accordance with the Council's standard design for highway schemes;
  - 4.2.2 there will be the provision of new street lighting constructed to highway standard along the full route; and
  - 4.2.3 there will be drop kerb crossing points at Joy Lane and Wrights Lane.
- 4.3 The cross section of the integral cycle track with a right of way on foot (Appendix 9), 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:
- 4.3.1 a 2m grass verge where utilities would be located;
  - 4.3.2 a 3.5m integral cycle track with a right of way on foot; and
  - 4.3.3 a further 2m verge to the edge of the boundary of the Scheme with the adjacent landowner.
- 4.4 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). This will consist of:
- 4.4.1 2.0m - 2.5m grass verge adjacent to the existing carriageway
  - 4.4.2 3.5m integral cycle track with a right of way on foot, draining towards the highway and bitmac construction with concrete edgings
  - 4.4.3 Topsoil to grade down towards existing fields (levels to be determined)
  - 4.4.4 Cut off land drain at toe of embankment
  - 4.4.5 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
  - 4.4.6 New timber post and tensile wire fence along the boundary with private land ownerships in order to denote the highway boundary limit
- 4.5 Public Right of Way Footpath No. 28 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.

- 4.6 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.

#### Objectives

- 4.7 The Acquiring Authority's objectives for the Scheme are to provide a safe and direct route for pedestrians and cyclists between Burtonwood village and the job and retail opportunities at Omega, Gemini and Lingley Mere employment areas, and to minimise the number of crossing points of Burtonwood Road/Clay Lane, which might place the user at risk of a collision with motor vehicles on the road.
- 4.8 The wider strategic objectives are as follows:
- 4.8.1 To improve the health of residents by allowing them to travel in a more sustainable manner;
  - 4.8.2 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;
  - 4.8.3 To improve the quality of life for residents by creating a more pleasant travelling environment;
  - 4.8.4 To provide better economic opportunities for residents by providing better non car access to the employment areas in north west Warrington; and
  - 4.8.5 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.

## 5. ALTERNATIVES TO THE SCHEME

5.1 The Acquiring Authority 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.

**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
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</p>

Options	Description	Comment
		pedestrians and cyclists.
Option 2	<p>Construct a new path on the west side of Burtonwood Road from Omega to Tan House Lane, then switch across to 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>This option was rejected as:</p> <p>(a) It does not provide a continuous 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 Land 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</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,</p>

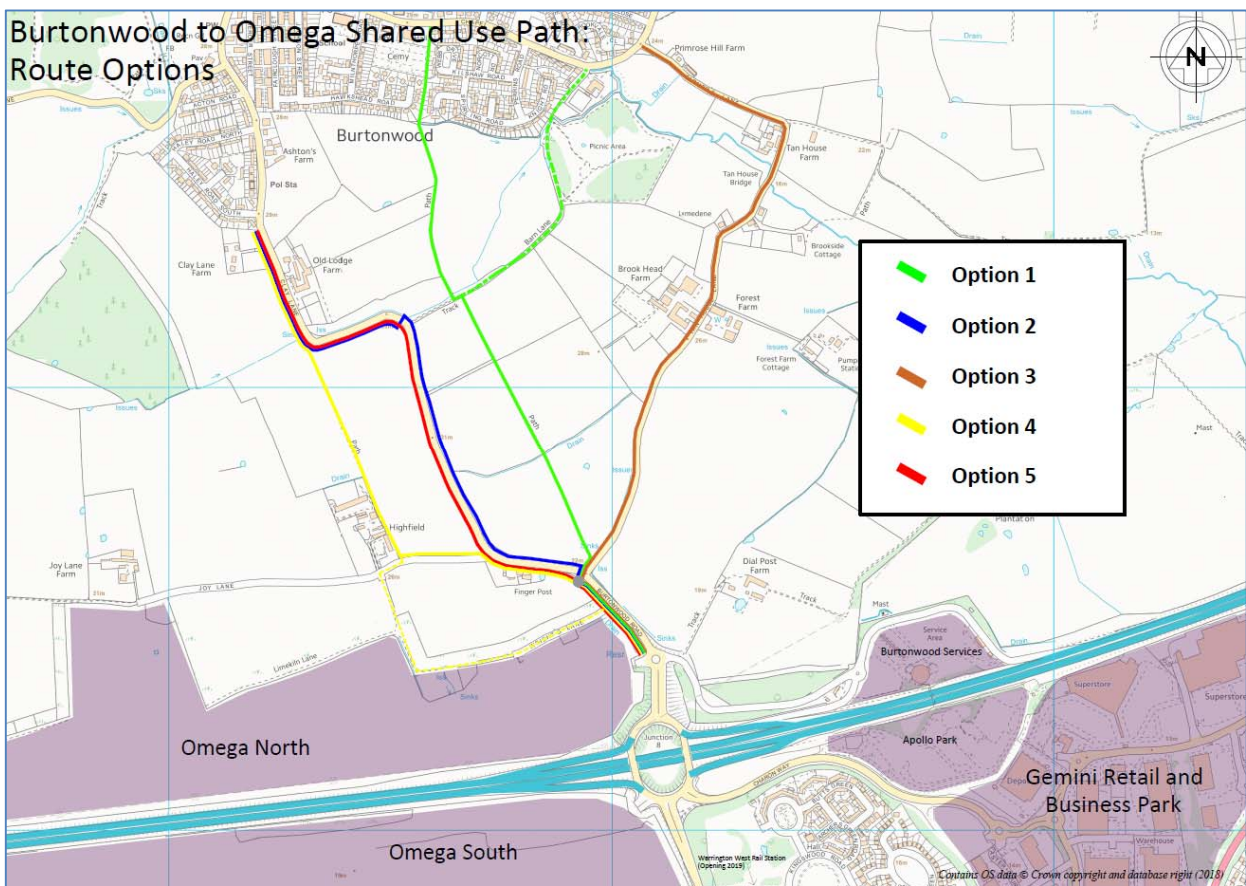
Options	Description	Comment
	trees.	causing delays and driver frustrations.
Option 4	<p>Construct a new path on the west side of Clay Lane then utilise the footpath across the fields south towards the property known as Highfield. The route would then turn east to use Joy Lane and, thereafter, join Burtonwood 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 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>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, 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</p>



Options	Description	Comment
		children between Burtonwood and Great Sankey high school would offer potential savings to the Council, as it would negate the need for school transport to be provided.

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

**Figure 6 - The Scheme: Route Options**



5.3 As a result of this optioneering process and the responses provided during the public consultation process, a decision was made that Option 5 would be the preferred option for the delivery of the Scheme, for the reasons as outlined in Table 1 above.

5.4 The common feature of all the route options is that due to the restricted width of the existing roads between Burtonwood and Omega, there would be the need for some land acquisition in order to construct a 3.5m wide integral cycle track with a right of way on foot together with room for a verge/buffer area. The choice of Option 5 was, therefore, based on meeting the key Scheme objectives as defined in paragraph 4.5, and also the strategic objectives as defined in paragraph 4.6.

## 6 PLANNING CONSIDERATIONS

- 6.1 In making the Order, the Acquiring Authority has had regard to national planning policy, the Development Plan and other relevant local policy and guidance.
- 6.2 At both a strategic and local planning policy level there is support for the Scheme, as detailed below.

### National Transport Objectives

- 6.3 The key drivers for transport investment associated with the Scheme align with national transport objectives aimed at improving the environment, public health and quality of life.

### National Planning Policy Framework (2018)

- 6.4 The National Planning Policy Framework ("NPPF") sets out the Government's planning policies for England and how they are expected to be applied. The NPPF identifies three mutually dependent dimensions to achieving sustainable development, namely the economy, environment and society. These are the three tenets against which all transport infrastructure projects should be assessed in planning terms. At the heart of the NPPF is a presumption in favour of sustainable development.
- 6.5 There is a very strong emphasis on sustainable transport. Chapter 9 states that planning policies should:
- a) support an appropriate mix of uses across an area, and within larger scale sites, to minimise the number and length of journeys needed for employment, shopping, leisure, education and other activities;
  - b) be prepared with the active involvement of local highways authorities, other transport infrastructure providers and operators and neighbouring councils, so that strategies and investments for supporting sustainable transport and development patterns are aligned;
  - c) identify and protect, where there is robust evidence, sites and routes which could be critical in developing infrastructure to widen transport choice and realise opportunities for large scale development;
  - d) provide for high quality walking and cycling networks and supporting facilities such as cycle parking drawing on Local Cycling and Walking Infrastructure Plans ("LCWIPs") – see paragraph 6.14;

- 6.6 The Scheme fully complies with the NPPF in that it is providing for sustainable travel.

### Cycling and Walking Investment Strategy

- 6.7 The national Cycling and Walking Investment Strategy ("CWIS") sets out the Government's ambition to:

*"...make cycling and walking the natural choice for shorter journeys, or as part of a*

*longer journey"*

It seeks to achieve this through three methods:

- Better safety – making cycling safer through reducing the severance effect of roads, reduced speeds and creating streets where cyclists and pedestrians feel they belong
- Better mobility – offering world class cycling facilities, a denser network of routes and safe paths along busy routes
- Better streets – streets designed for people not vehicles, more routes through green spaces and better public realm.

6.8 Local authorities are expected to support the CWIS by developing and delivering their own walking and cycling schemes, and these should be described in LCWIPs.

6.9 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.

#### Warrington Local Transport Plan

6.10 The Local Transport Plan ("LTP") is a vital tool to help each local authority work with its stakeholders to strengthen its place-shaping role and its delivery of services to the community. The document helps address local transport issues by:

- Providing a framework for decisions on future investment
- Setting objectives for transport to support our wider goals and ambitions
- Establishing policies to help us achieve these objectives
- Containing plans for implementing these policies.

6.11 Warrington's current Local Transport Plan is LTP3, which was adopted in March 2011. 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."*

6.12 Active travel is one of the seven key themes in the LTP, and its key challenges for active travel include:

- Creating and promoting a cycle network that will encourage more people to cycle
- Working with partners to facilitate and encourage travel to employment sites and other services by active modes.

- 6.13 The Council is now developing the fourth LTP and reviewing 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.

#### Warrington Local Cycling and Walking Infrastructure Plan

- 6.14 Local Cycling and Walking Infrastructure Plans ("LCWIPs"), as set out in the Government's Cycling and Walking Investment Strategy, are a new strategic approach to identifying cycling and walking improvements required at the local level. They enable a long-term approach to developing local cycling and walking networks and form a vital part of the Government's strategy to increase the number of trips made on foot or by cycle.
- 6.15 The key outputs of LCWIPs are:
- A network plan for walking and cycling which identifies preferred routes and core zones for further development
  - A prioritised programme of infrastructure improvements for future investment
  - A report which sets out the underlying analysis carried out and provides a narrative which supports the identified improvements and network.
- 6.16 By taking a strategic approach to improving conditions for cycling and walking, LCWIPs will assist Local Authorities to:
- Identify cycling and walking infrastructure improvements for future investment in the short, medium and long term
  - Ensure that consideration is given to cycling and walking within both local planning and transport policies and strategies
  - Make the case for future funding for walking and cycling infrastructure.
- 6.17 The Council is currently preparing a LCWIP for the Warrington district and this work utilises an award for technical support from the Government to help identify and tackle many of the crucial infrastructure related issues that are preventing people from walking and cycling in the Borough. These include the 'last mile' into Warrington Town Centre and the disconnection between rural communities and the rest of Warrington, as is the case for Burtonwood.

#### Growth Agenda

- 6.18 The key policy documents at the sub-regional level that are driving the need for increased economic growth include:
- a) *Cheshire and Warrington Matters* – a Strategic Economic Plan and Growth Plan for Cheshire and Warrington LEP (Appendix 10); and
  - b) Cheshire and Warrington Growth Deal (Appendix 7)

- 6.19 The Cheshire and Warrington LEP ("the LEP") is one of 38 Local Enterprise Partnerships across England, which were created in 2011 by the Government. They are local business led partnerships between local authorities and businesses, and play a central role in determining local economic priorities and undertaking activities to drive economic growth and the creation of local jobs. The C&W LEP is responsible for projects within Cheshire East, Cheshire West and Chester, and Warrington unitary authorities.
- 6.20 The LEP has produced a Strategic Economic Plan ("SEP"), *Cheshire and Warrington Matters*, (Appendix 10) which provides a vision and strategic framework for the next decade to guide the prioritisation and decision making processes for Cheshire and Warrington, enabling major growth and transformation to the local, North West and UK economies.
- 6.21 To achieve the growth targets contained within the SEP, there is a need to deliver transport investment schemes for infrastructure that drive growth and productivity, tackle congestion, maximise housing growth, and provide a broader housing offer in order to support the region's economic aspirations, maximising infrastructure growth assets, including property and place.
- 6.22 As a result, the SEP is underpinned by a Draft Transport Strategy (Appendix 11) within which 6 priorities are identified. The Burtonwood to Omega integral cycle track with a right of way on foot would address 5 of these priorities, as follows:
- 6.22.1 Improve connections to support development of priority employment sites including those within the Cheshire Science Corridor;
  - 6.22.2 Improve connections to neighbouring sub regions, including international gateways to ensure that business has connectivity to global markets and facilitate the economic benefits of both out and in commuting that takes place daily;
  - 6.22.3 Resolve pinch points and congestion in the transport network, both road and rail, which act as barriers to growth if left unaddressed. Delays and unpredictable journey times affect business activity directly (e.g. the supply of components to the automotive sector) and indirectly, and influences commuting flows;
  - 6.22.4 Address network resilience issues to deliver predictable and efficient journey times to support business productivity; and
  - 6.22.5 Make best use of the existing road (e.g. smart motorways) and rail network (e.g. electrification) to capitalise on existing infrastructure, offering efficient mechanisms for improvement, and helping deliver best value for money from investment.

#### Cheshire and Warrington Growth Deal

- 6.23 In July 2014, the Government announced the first wave of Growth Deals, which provide the LEPs with money from the Local Growth Fund ("LGF") for projects that benefit the local area and economy. The growth deal provides an 'in principle' allocation of funding for a LEP area wide Sustainable Transport project. This was made up of 10 cycling and walking projects from across the sub-region which all aimed to improved sustainable connections between residential areas and

employment areas. Indicative funding was awarded for three projects within Warrington, one of which is the Omega to Burtonwood integral cycle track with a right of way on foot.

- 6.24 The justification for awarding LGF3 grant to the Scheme is that it directly contributes to the aims of the SEP, including the tackling of traffic congestion (by offering alternative means of travel) and strengthening connectivity (for example between home and jobs). The Omega employment site is a key location within the Borough for inward investment and has been very successful in attracting some major logistics companies, including Amazon, Hermes, The Hut Group, Brakes, and Travis Perkins. As explained in Section 3, there are many people who live in Burtonwood and also St Helens for whom an integral cycle track with a right of way on foot as part of improved Burtonwood Road/Clay Lane would be very beneficial.

#### Other Non-Transport Local Strategies

- 6.25 The following paragraphs outline how the Scheme could contribute to the Acquiring Authority's non-transport local strategic aspirations, including reference to the following key policy documents:

- Warrington Borough Council Corporate Strategy (2018-20)
- Warrington Local Plan Core Strategy (2014)
- Warrington Means Business (2017)
- Health and Wellbeing strategy (2015-18)
- Air Quality Action Plan (2018)

#### *Warrington Borough Council Corporate Strategy 2018-2020 (Appendix 12)*

- 6.26 The Strategy outlines the Acquiring Authority's vision for Warrington up to 2020. The Acquiring Authority intends to work with residents, businesses and partners to make Warrington a place where everyone can thrive, whilst dealing with the major challenge of reductions in funding and increased demand for services. The Scheme achieves this as it creates a new transport link which benefits people who do not have access to a car or who prefer not to use a car for the journey between Burtonwood and Warrington. It is, therefore, socially equitable and has a wider community benefit.
- 6.27 The Strategy also identifies the need to invest in, maintain and build Warrington's economic and environmental infrastructure, in order to grow a strong economy. With regard to the Scheme, this is achievable as the integral cycle track with a right of way on foot will access the Omega site, which is still being developed thus offering job opportunities to local people.

## *Warrington Local Plan*

- 6.28 The statutory Development Plan for the Borough of Warrington is the Local Plan Core Strategy (July 2014). The Local Plan sets out a number of objectives and policies that support the provision of the Scheme. The Acquiring Authority published its Local Plan Preferred Development Option for consultation in 2017, and is currently reviewing its Local Plan with a view to producing a new plan by 2020. Whilst this document does not represent the Acquiring Authority's policy at the present time because the draft Local Plan is still at an early stage of preparation, many of the objectives and policies from the Local Plan Core Strategy (2014) have been carried forward in the current Core Strategy.
- 6.29 Those of relevance to the Scheme are described below:
- 6.29.1 **Local Plan Strategic Objective W4** seeks to ensure that the Borough is as accessible as possible whilst reducing the need to travel and providing opportunities to move people and goods by non-car modes; and
- 6.29.2 **Policy CS 4 Overall Spatial Strategy-Transport**, states the Council will support improvements to Warrington's Transport Network in a number of ways. Relevant improvements supported by policy in this instance are:
- a) Strengthening public and sustainable transport links between recognised areas for business, general industrial and storage/distribution uses, the Town Centre and Inner Warrington, focusing particularly on areas of deprivation
  - b) Improve access to the Town Centre, health facilities, education, culture, leisure and the natural environment by all modes, especially by walking and cycling
  - c) Reducing the impact of traffic on air quality and reducing carbon emissions to help tackle climate change.
- 6.29.3 **Policy MP 1-General Transport Principles**, states to secure sustainable development the Council and its partners will support proposals where they:
- a) Reduce the need for private car use through its location, travel planning and marketing (smarter choices) and any other measures to change travel behaviour; and
  - b) Consider demand management measures including the effective reallocation of road space in favour of public transport, pedestrians and cyclists.

*Warrington Means Business (2017) (Appendix 13)*

- 6.30 Warrington Means Business is Warrington's regeneration strategy. It is a comprehensive framework that sets out the methodology and intent to drive, progress, encourage and facilitate future business growth in the town. It is a live working document which reflects the current status, plans, opportunities, aspirations and desire to maximise Warrington's potential.
- 6.31 The strategy recognises that:  
*"walking and cycling are a fundamental part of Warrington's transportation and leisure infrastructure. They are also an essential ingredient of Warrington's image, distinctiveness and its economic attractiveness. We will complete Warrington's cycling and walking network on-road and off road. The latter is particularly important using Warrington's network of open space and greenways."*
- 6.32 More specifically the Warrington Means Business Strategy plans to see the *"completion of our strategic cycling and walking network linking key employment areas with housing growth."* This fits the description of the Scheme which provides a new link between the Omega and Gemini employments areas to the village of Burtonwood which will see new housing through the Local Plan.

*Health and Well Being Strategy (Appendix 14)*

- 6.33 The Warrington Health and Wellbeing Strategy sets out Warrington Health and Wellbeing Board's and Warrington Partnership's, ambitions to improve the health and wellbeing of the town's residents. Board members include representatives from key council services, NHS organisations in the area and a number of other private and voluntary sector services.
- 6.34 The strategy looks at how all organisations working across public service provision in Warrington can work better together, how services are commissioned and the changes that need to take place so that residents are supported with the right care, by the right person at the right time.
- 6.35 One of the six strategic outcomes of the strategy relates to creating, *"a sustainable transport infrastructure that enables access to work, health and leisure facilities for all."* The Scheme is supportive of the strategy as it will increase the numbers of people using sustainable travel (public transport, cycling, walking) and improve air quality.

*Air Quality Action Plan (Appendix 15)*

- 6.36 The Warrington Air Quality Action Plan ("AQAP") has been produced as part of the Council's statutory duties required by the Local Air Quality Management framework. It outlines the actions the Council will take to improve air quality in Warrington between 2017 and 2022.
- 6.37 While the AQAP covers the years 2017-22, initial actions will focus on a framework of policies and plans to improve air quality and to support wider action to promote health and wellbeing and tackle social injustice. One of the specific measures is the delivery



of the Burtonwood to Omega integral cycle track with a right of way on foot which would encourage more walking and cycling and therefore reduce traffic emissions from cars.

### Planning Consent

- 6.38 It is considered 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."*

- 6.39 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 paragraph 4.2 - 4.4 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.
- 6.40 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) on 12 March 2019 and a decision is awaited.

### Summary

- 6.41 In summary, the Scheme is supported by national and local strategies and policies at all levels and does not require planning permission.

## **7. ENVIRONMENTAL CONSIDERATIONS**

### Ecology

- 7.1 A Preliminary Ecological Assessment Report ("PEAR") was undertaken of Burtonwood Road/Clay Lane in May 2018 (Appendix 16) to identify whether the Scheme would have any impact on protected species of habitats, and whether further survey work or mitigation will be needed. The findings of the PEAR for the Scheme conclude that the provision of an integral cycle track with a right of way on foot will have no significant effect on the land adjacent to Clay Lane and Burtonwood Road, nor on any non-statutory designated sites within 2.0km of the Scheme. No further surveys are proposed.

### Hedgerows

- 7.2 The Scheme will require the removal of some hedgerows as part of the construction process. The identified hedgerows have been assessed in accordance with The Hedgerows Regulations 1997, which use the three tests of length, location and importance to verify whether or not the hedgerow is protected. It is concluded that, in this case, the hedgerow can be removed. The Scheme will include a landscaping programme to re-plant new hedgerow adjacent to the line of the original hedgerow
- 7.3 Prior to construction of the Scheme, an application for a Hedgerow Removal Notice will be made to the Local Planning Authority in accordance with The Environment Act 1995 and The Hedgerows Regulations 1997, for consent to remove the hedgerow. It is not foreseen that there will be any issue with this consent being given.

## **8 THE ORDER LAND**

- 8.1 The Order Land consists of 13 plots of land within a number of different ownerships, including freehold, leasehold and occupational interests. The full extent of the Order Land is set out in the Order Map, with interests to be acquired shown in pink shading. The Order Schedule sets out the details of those interests. Details of the negotiations with the affected parties to date are detailed in Section 9 of this Statement.

### Land required for the Scheme

- 8.2 The Order Land consists of plots of land along Clay Lane and Burtonwood Road. 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.
- 8.3 Plot 1 consists of grass verge adjoining the existing highway, together with grassed garden and private driveway leading to Clay Lane Farm. Plots 7 - 9 consist of land within the curtilage of Fingerpost Farm, being cleared land, garden and garden wall.
- 8.4 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 at Old Lodge Farm, Ivy Cottage and Fingerpost Farm.
- 8.5 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.

## **9 NEED FOR THE COMPULSORY PURCHASE ORDER**

### Appropriateness of Powers

- 9.1 The Acquiring Authority's Scheme for the improvement of the highway network is clearly within the scope of the compulsory purchase powers as set out in Sections 239, 240, 246 and 260 of the 1980 Act. The inclusion of Section 260 of the Highways Act 1980 has been made in the Order to account for any land that may be acquired by private treaty negotiation for the statutory purpose of improving the highways as part of the Scheme, between the making of the Order and the confirmation/implementation of the Order, to ensure that title is appropriately cleansed, as may be required.

### The Public Interest Test

- 9.2 Paragraph 2 of the Guidance advises that a compulsory purchase order should only be made where there is a compelling case in the public interest. The Acquiring Authority is fully satisfied that this requirement is met and that this has been demonstrated within this Statement of Reasons. The Scheme will provide various benefits to the public, which are summarised below:

- a) Increase in numbers of people walking and cycling thereby improving public health;
- b) A transfer from cars to walking and cycling, thus reducing traffic congestion and traffic emissions; and
- c) Improvements in road safety

- 9.3 The Acquiring Authority is seeking to acquire the Order Land, wherever possible, by means of agreement rather than by compulsory purchase and has sought to discuss and negotiate with owners and occupiers to achieve this end. It has fully considered the Guidance, which relates to the justification for a compulsory purchase order, to determine whether there is a compelling case in the public interest to compulsorily acquire and use land for the purposes of the Scheme. It is considered that a compelling case exists here.

- 9.4 For the reasons stated above, the Acquiring Authority considers that there is a compelling case in the public interest for the making and confirmation of the Order to secure the Order Land required for the purpose of implementing and delivering the Scheme.

### Need for the Order Land

- 9.5 The Acquiring Authority's approach is only to acquire land compulsorily where they are strictly needed to assure successful delivery of the Scheme in accordance with best engineering and environmental practices.

- 9.6 The Acquiring Authority has given careful consideration to the reasons as to why it is necessary to include the land shown on the Order Map and described further in Section 8 of this Statement. All freehold owners, lessees and occupiers affected by the Order have been invited to enter into discussions with a view to agreeing appropriate terms for acquisition of the land.
- 9.7 The Acquiring Authority has a very clear idea how it will use the land it intends to acquire and has the necessary resources to acquire the land and interests needed for the Scheme.

#### Attempts to Acquire by Agreement

- 9.8 The Acquiring Authority is seeking to acquire the Order Land wherever possible by means of agreement in accordance with the Guidance, and powers of compulsory purchase, should the Order be confirmed, will only be used as a matter of last resort. During the preparation of the Order, it has fully considered the Guidance, in particular those sections which relate to the acquisition of land by agreement. These are set out below:

**9.8.1 *What are the benefits of undertaking negotiations in parallel with preparing and making a compulsory purchase order? (Paragraph 17)***

*Undertaking negotiations in parallel with preparing and making a compulsory purchase order can help to build a good working relationship with those whose interests are affected by showing that the authority is willing to be open and to treat their concerns with respect. This includes statutory undertakers and similar bodies as well as private individuals and businesses. Such negotiations can then help to save time at the formal objection stage by minimising the fear that can arise from misunderstandings.*

*Talking to landowners will also assist the acquiring authority to understand more about the land it seeks to acquire and any physical or legal impediments to development that may exist. It may also help in identifying what measures can be taken to mitigate the effects of the Scheme on landowners and neighbours, thereby reducing the cost of a Scheme. Acquiring authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted, save for lands where land ownership is unknown or in question.*

**9.8.2 *Can alternative dispute resolution techniques be used to address concerns about a compulsory purchase order? (Paragraph 18)***

*In the interests of speed and fostering good will, acquiring authorities are urged to consider offering those with concerns about a compulsory purchase order full access to alternative dispute resolution techniques. These should involve a suitably qualified independent third party and should be available wherever appropriate throughout the whole of the compulsory purchase process, from the planning and preparation stage to agreeing the compensation payable for the acquired properties.*

*The use of alternative dispute resolution techniques can save time and money for both parties, while its relative speed and informality may also help to reduce the stress which the process inevitably places on those whose properties are affected. For example, mediation might help to clarify concerns relating to the principle of compulsorily acquiring the land, while other techniques such as early neutral evaluation might help to relieve worries at an early stage about the potential level of compensation eventually payable if the order were to be confirmed.*

**9.8.3 What other steps should be considered to help those affected by a compulsory purchase order? (Paragraph 19)**

*Compulsory purchase proposals will inevitably lead to a period of uncertainty and anxiety for the owners and occupiers of the affected land. Acquiring authorities should therefore consider:*

- providing full information from the outset about what the compulsory purchase process involves, the rights and duties of those affected and an indicative timetable of events; information should be in a format accessible to all those affected;*
- appointing a specified case manager during the preparatory stage to whom those with concerns about the proposed acquisition can have easy and direct access;*
- keeping any delay to a minimum by completing the statutory process as quickly as possible and taking every care to ensure that the compulsory purchase order is made correctly and under the terms of the most appropriate enabling power;*
- offering to alleviate concerns about future compensation entitlement by entering into agreements about the minimum level of compensation which would be payable if the acquisition goes ahead (not excluding the claimant's future right to refer the matter to the Upper Tribunal (Lands Chamber));*
- offering advice and assistance to affected occupiers in respect of their relocation and providing details of available relocation properties where appropriate;*
- providing a 'not before' date, confirming that acquisition will not take place before a certain time;*
- where appropriate, give consideration to funding landowners' reasonable costs of negotiation or other costs and expenses likely to be incurred in advance of the process of acquisition.*

9.9 In accordance with the Guidance, all owners and occupiers with an interest in land have been approached to ask if they would be prepared to enter into negotiations with the Acquiring Authority for the purchase of their respective interests.

- 9.10 Discussions are taking place with a number of landowners and occupiers, however, the Acquiring Authority has concluded that acquisition by agreement is unlikely to occur in all cases or, in any event, within sufficient time to ensure that the programme for the construction of the Scheme is met.
- 9.11 Discussions will continue with owners of relevant interests required, in an endeavour to secure them by agreement, wherever possible, with a view to limiting the number of interests which need to be acquired compulsorily. The approach adopted by the Acquiring Authority is in accordance with the policy advice and recognised good practice. Further information on the status of negotiations to date is set out in Section 9.14 onwards below.
- 9.12 In accordance with paragraph 18 of the Guidance, where the Acquiring Authority has been unable to reach agreement with landowners and occupiers it will offer alternative dispute resolution to enable agreement on compensation to be reached. The Acquiring Authority will also offer information on the Scheme, a case manager, and reassurance on fees, in accordance with paragraph 19 of the Guidance. Due the nature of the interests required for the delivery of the Scheme, relocation will not be necessary.
- 9.13 The Order will be made to secure the outstanding interests and rights required to enable implementation of the Scheme, necessary to achieve the Acquiring Authority's objectives for the area.

#### Negotiations with Affected Landowners

- 9.14 The Acquiring Authority has sought to engage in private treaty negotiations with key landowners. Brief details of the negotiations that have been undertaken to date are further outlined in paragraph 9.15 below.
- 9.15 Representatives of the Acquiring Authority have met with most of the plot owners and discussions are progressing regarding the acquisition of the required land. All other plot owners have been made aware of the proposed Scheme and discussions regarding the acquisition of land will commence shortly. These negotiations will continue in parallel to any powers of compulsory purchase throughout the process of the Order, up to implementation, and compulsory acquisition will only be pursued as a matter of last resort.

#### Conclusions

- 9.16 As set out within this Section 9, the Acquiring Authority considers it has demonstrated that there is a compelling case in the public interest whereby the public benefit will outweigh any private loss. Interference with rights under the European Convention on Human Rights (as further set out in Section 11) is considered to be justified, in order to secure the benefits that the Scheme will bring.
- 9.17 It is, therefore, considered that the use of compulsory purchase powers is both necessary and proportionate, and that there is a compelling case in the public interest for the making and confirmation of the Order. It is considered that the Order does not constitute any unlawful interference with individual property rights. The

compulsory purchase process enables objections to be submitted and a Local Public Inquiry to be held to consider those objections.

9.18 The parties directly affected by the Order will be entitled to compensation in accordance with the Compensation Code, which is the collective term used for the principles set out in the Land Compensation Act 1961, the Compulsory Purchase Act 1965, the Land Compensation Act 1973, the Planning & Compulsory Purchase Act 1991 and the Planning & Compulsory Purchase Act 2004. This is supplemented by case law relating to compensation for compulsory acquisition, and the recent provisions relating to compulsory purchase contained in the Housing and Planning Act 2016 and the Neighbourhood Planning Act 2017.

9.19 All of the Order Land is required in order to deliver the Scheme, and there is no certainty that the necessary land and interests can be assembled by agreement within a reasonable period. As such, the Order is necessary to deliver the Scheme, though powers of compulsory purchase will only be used as a matter of last resort and efforts to acquire all interests by negotiation will continue in parallel, both up to the making and confirmation of the Order, and also post-confirmation, prior to its implementation.



## 10. FINANCE OF THE SCHEME AND TIMESCALES FOR IMPLEMENTATION

- 10.1 Paragraph 14 of the Guidance sets out the elements that will be considered by the Secretary of State when confirming an Order, and requires that evidence is provided as to the sources and timing of funding.
- 10.2 The total pre-tendered estimated cost of the Scheme is around £1.65m, which will be met from a package of funding as outlined in paragraphs 10.5 to 10.8.
- 10.3 A Land Cost Estimate was commissioned from Axis Property Consultancy LLP, acting as a sub-consultant to Lambert Smith Hampton Group Limited, with the total estimated value for the acquisition of land and property being assessed based on current market conditions.
- 10.4 The Acquiring Authority has given consideration to potential blight claims being received by affected owners and occupiers. Based on the information currently available, it is considered unlikely that any claims received would meet the minimum criteria set out within the statutory provisions.

### External Funding

- 10.5 The Scheme was given an indicative allocation of £500,000 from the Cheshire and Warrington Local Enterprise Partnership as part of the LGF3 Cheshire and Warrington Growth Deal. This followed a successful bid in 2017 as part of the Cheshire and Warrington Active Travel Investment Strategy.
- 10.6 Final approval of the Outline Business Case was given by the LEP at the LEP's Performance and Investment meeting on 17 October 2018 and the final grant offer letter was sent on 5 December 2018 (Appendix 17).
- 10.7 In addition, £250,000 of private sector funding has been secured from the agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) in relation to the Omega development site (Appendix 6).

### Council Funding

- 10.8 In April 2018, the Executive Board of the Council approved Council Capital borrowing of £0.90 million to enable the full delivery of the Scheme (Appendix 8). The approved funding sources for the Scheme are outlined below in Table 4.

**Table 4: Acquiring Authority Funding Sources (Approved Executive Board April 2018)**

<b>Acquiring Authority Funding Sources</b>	<b>Allocation (£million)</b>
WBC Capital borrowing	0.90
LGF3 grant	0.50

S106 contribution	0.25
Total	1.65

#### Timescales for Implementation

- 10.9 The Acquiring Authority will continue to negotiate as far as possible and reasonable with all parties with an interest in the Order Land, but would hope to be in a position that remaining land and property rights have been acquired (or the terms of the acquisitions agreed and progressing through detailed legal agreements) via negotiation prior to the end of July 2019.
- 10.10 The Acquiring Authority anticipates that should the compulsory purchase process result in a local Public Inquiry, this would be heard in or around the third quarter of 2019. In the event that the Order is confirmed by the Secretary of State, this would likely result in implementation by March 2020, allowing the construction contract for the works to be awarded by the end of April 2020. Works would then commence on Site at the start of June 2020, completing circa 6 months later.
- 10.11 In the event that a local Public Inquiry is not required, the Acquiring Authority would seek to commence works on Site at the earliest possible time.

#### Conclusion

- 10.12 The Acquiring Authority is satisfied that, in accordance with Paragraph 14 of the Guidance, the Scheme has available all relevant resources to enable delivery, the necessary funding can be provided and, as set out above, it is financially viable.
- 10.13 If the Order is confirmed, development of the Scheme will be brought forward on the Order Land and the Site at the earliest opportunity.

## 11 HUMAN RIGHTS

- 11.1 The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights ("the Convention"). The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual.
- 11.2 The following articles of the Convention are relevant to the determination as to whether the Order should be confirmed:
- a) Article 1 of the First Protocol protects the right of everyone to peaceful enjoyment of possessions. No one can be deprived of their possessions except in the public interest and subject to the relevant national and international laws. Any interference with possessions must be proportionate and, in determining whether a particular measure is proportionate, a fair balance must be struck between the public benefit sought and the interference with the rights in question;
  - b) Article 6 entitles those affected by the powers sought in the Order to a fair and public hearing by an independent and impartial tribunal;
  - c) Article 8 protects the right of the individual to respect for his private and family life, his home and his correspondence. A public authority cannot interfere with these interests unless such interference is in accordance with the law and is necessary in the interests of, inter alia, national security, public safety or the economic wellbeing of the country.
- 11.3 The Order has the potential to infringe the human rights of persons who own property in the Order Land. Such infringement is authorised by law provided:
- a) the statutory procedures for obtaining the Order are followed and there is a compelling case in the public interest for the Order; and
  - b) any intervention with the Convention right is proportionate to the legitimate aim served.
- 11.4 The Scheme has been designed to minimise interference with the peaceful enjoyment of a person's possessions under Article 1 of the First Protocol of the Human Rights Act. Under this Article, no person is to be deprived of their possessions, except in the public interest. Any interference with the right has to be provided for by law and strike a fair balance between the public interest and the protection of the rights of the individual. The public benefits associated with the Scheme are set out earlier in this Statement (Section 9) and the Acquiring Authority believes that the Scheme is in the public interest, and that this outweighs the harm caused by the use of compulsory purchase powers to acquire third party land for the Scheme.
- 11.5 In promoting the Order, the Acquiring Authority has complied with all relevant legislation and regulations. Consultation has taken place with the communities and

parties that will be affected by the Order. All those affected by the Order will be notified, will have the right to make representations and/or objections to the Secretary of State, and to be heard at a Local Public Inquiry. It has been held that the statutory processes and associated right for those affected to pursue remedies in the High Court where relevant, are compliant with Article 6.

- 11.6 The Acquiring Authority considers that such interferences with Article 8, as may occur should the Order be confirmed, are in accordance with the law and are necessary in a democratic society in that they would be in pursuit of a legitimate aim, namely the economic well-being of the country and/or the protection of the rights and freedoms of others, and are proportionate, having regard to the public interest that the Scheme will bring, which will benefit the well-being of the area.
- 11.7 Although there is no obligation on the Acquiring Authority to establish that there are no less intrusive means available, the Order Land has been kept to the minimum necessary to construct the Scheme and provide the associated mitigation measures.
- 11.8 Those directly affected by the Order will also be entitled to compensation, which will be payable in accordance with the Compulsory Purchase Compensation Code. This will be assessed on the basis of the market value of the property interest acquired, disturbance and statutory loss payment. The reasonable surveying and legal fees incurred by those affected will also be paid by the Acquiring Authority. The Compulsory Purchase Code has been held to be compliant with Articles 8 and Article 1 of the First Protocol.
- 11.9 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 the community as a whole”. Both public and private interests are to be taken into account in the exercise of the Acquiring Authority’s powers and duties. Similarly, any interference with Article 8 rights must be “necessary in a democratic society”, i.e. proportionate.
- 11.10 The public interest can only be safeguarded by the acquisition of this land and such acquisition would not place a disproportionate burden on the affected landowners. In addition, the Scheme already has the benefit of planning permission, the grant of which involved the weighing of all material planning considerations, including the public benefit of pursuing the Scheme against any disruption and interference that would be caused to individual rights.
- 11.11 In pursuing this Order, the Acquiring Authority has carefully considered the balance to be struck between the effect of acquisition on individual rights and the wider public interest in the Scheme construction. Interference with Convention rights is considered by the Acquiring Authority to be justified in order to secure the economic regeneration, environmental and public benefits which the Scheme will bring.

## **12 RELATED ORDERS AND SPECIAL CATEGORY LAND**

### Planning Permission

- 12.1 As noted in Section 6 of this Statement, the Scheme does not require planning permission as it constitutes permitted development.

### Traffic Regulation Orders

- 12.2 Traffic Regulation Orders will be required to introduce new, and amend existing, speed limits, to prohibit or restrict parking and waiting of vehicles, and to prohibit or restrict the loading and unloading of vehicles. The Traffic Regulation Orders will be made prior to construction and are not considered an impediment to the delivery of the Scheme.

### Hedgerows Regulations

- 12.3 As noted in Section 7, prior to construction there will be an application for a Hedgerow Removal Notice to the Local Planning Authority for permission to remove the hedgerows that lie within the construction area of the Scheme, in accordance with The Hedgerows Regulations 1997. The Scheme will include a landscaping programme to re-plant appropriate hedgerow adjacent to the original line of the hedgerow.

### Special Category Land

#### *Statutory Undertakers' Land*

- 12.4 The Order Land includes land which has been acquired by statutory undertakers for the purposes of their undertaking. In accordance with Section 16 of the Acquisition of Land Act 1981, any acquisition of such special category land could result in a separate and additional power in favour of statutory undertakers to make representations to their Minister and, until such an objection is withdrawn, no Order can be confirmed. Section 16(2) allows the confirmation of an Order notwithstanding the presence of an extant objection if the Secretary of State for Business, Energy and Industrial Strategy is satisfied that the land in question can either be purchased without serious detriment to the carrying on of the undertaking, or that replacement land can be given.
- 12.5 In accordance with the New Roads and Street Works Act 1991, extensive discussions have taken place with all statutory undertakers to determine if they are affected by the Scheme and, if so, to confirm the necessary measures that will be required where their operational apparatus will be impacted. Bearing this in mind, and in consideration of the ongoing negotiations with the relevant statutory undertakers, it is considered that there will be no serious detriment to the carrying on of the undertaking and, as such, Section 16(2) is satisfied.

#### *Crown and Consecrated Land*

- 12.6 The Scheme does not contain any Crown land nor any consecrated land.

### **13. INSPECTION OF DOCUMENTS AND CONTACT DETAILS**

13.1 The following documents are available for public inspection during normal office hours at Contact Warrington, 26-30 Horsemarket Street, Warrington WA1 1XL.

13.2 The documents are:

- the Order and Order Schedule;
- the Order Map; and
- this Statement of Reasons.

13.3 The documents can also be viewed on the Acquiring Authority's website [www.warrington.gov.uk](http://www.warrington.gov.uk)

13.4 Interested parties affected by the Order who wish to discuss matters with the Acquiring Authority should contact John Nichol (Principal Transport Planner), by one of the following means:

by telephone: on 01925 443867

by e-mail: to [jnichol@warrington.gov.uk](mailto:jnichol@warrington.gov.uk)

by post: to Warrington Borough Council, Warrington Borough Council, New Town House, Buttermarket Street, Warrington WA1 2NH marked for the attention of John Nichol.

13.5 Owners and occupiers of properties affected by the Order who wish to progress discussions for the acquisition of their interest should contact Kate Okell MRICS, Consultant to Lambert Smith Hampton Group Limited on 0161 300 7765 or via email at [kateokell@axisllp.com](mailto:kateokell@axisllp.com)

## **14. APPENDICES**

<b>Appendix 1</b>	<b>Order Map</b>
<b>Appendix 2</b>	<b>Site Plan</b>
<b>Appendix 3</b>	<b>Executive Board Minute - Approval of CPO powers (8 October 2018)</b>
<b>Appendix 4</b>	<b>Order Schedule</b>
<b>Appendix 5</b>	<b>Burtonwood Transport Study (May 2015)</b>
<b>Appendix 6</b>	<b>Section 106 Agreement dated 5 June 2007 (Omega Site)</b>
<b>Appendix 7</b>	<b>Cheshire and Warrington Growth Deal</b>
<b>Appendix 8</b>	<b>Executive Board Minute - Approval of funding (9 April 2018)</b>
<b>Appendix 9</b>	<b>Typical cross section of the Scheme (drawing H16-018-1200-003)</b>
<b>Appendix 10</b>	<b>Cheshire and Warrington LEP Strategic Economic Plan - Cheshire and Warrington Matters (extract)</b>
<b>Appendix 11</b>	<b>Cheshire and Warrington LEP Strategic Economic Plan – Draft Transport Strategy (extract)</b>
<b>Appendix 12</b>	<b>Warrington Borough Council Corporate Strategy 2018-2020 (extract)</b>
<b>Appendix 13</b>	<b>Warrington Means Business 2017 (extract)</b>
<b>Appendix 14</b>	<b>The Warrington Health and Wellbeing Strategy 2015-2018 (extract)</b>
<b>Appendix 15</b>	<b>Warrington Borough Council Air Quality Action Plan 2017-2022 (extract)</b>
<b>Appendix 16</b>	<b>Burtonwood Road/Clay Lane Preliminary Ecological Assessment Report (May 2018)</b>
<b>Appendix 17</b>	<b>LEP Final Grant Offer Letter (5 December 2018)</b>

## **Appendix 1**

### **Order Map**



## Appendix 2

### Site Plan

## **Appendix 3**

### **Executive Board Minute - Approval of CPO powers (8 October 2018)**

**Appendix 4**  
**Order Schedule**

## **Appendix 5**

### **Burtonwood Transport Study (May 2015)**

## Appendix 6

### Section 106 Agreement dated 5 June 2007 (Omega Site)

## Appendix 7

### Cheshire and Warrington Growth Deal

## **Appendix 8**

### **Executive Board Minute - Approval of funding (9 April 2018)**

## Appendix 9

### Typical Cross Section of Scheme (drawing H16-018-1200-003)



**Appendix 10**

**Cheshire and Warrington LEP Strategic Economic Plan - Cheshire and Warrington  
Matters (extract)**

## Appendix 11

### Cheshire and Warrington LEP Strategic Economic Plan –Draft Transport Strategy (extract)

## Appendix 12

### Warrington Borough Council Corporate Strategy 2018-2020 (extract)

## Appendix 13

### Warrington Means Business (2017)

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## Appendix 16

### Burtonwood Road/Clay Lane Preliminary Ecological Assessment Report (May 2018)

**Appendix 17**

**LEP Final Grant Offer Letter (5 December 2018)**