

Statement of Case

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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1. INTRODUCTION

- 1.1 This is the Statement of Case (the "Statement") of Warrington Borough Council (the "Acquiring Authority" and "the Council") prepared in connection with the making of a compulsory purchase order entitled the Warrington Borough Council (Omega to Burtonwood Accessibility Improvements) Compulsory Purchase Order 2019 (the "Order") [**document 1**], which has been submitted to the Secretary of State for Transport for confirmation. This Statement has been prepared in accordance with Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007 and in compliance with the Guidance on Compulsory Purchase Process and the Crichel Down Rules (July 2019). The Acquiring Authority reserves the right to alter or expand this Statement of Case as necessary.
- 1.2 The Acquiring Authority has made the Order pursuant to the powers in 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. In this Statement, the land included within the Order is referred to as "the Order Land." The Council is the Local Highway Authority for the Order Land.
- 1.3 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")
- 1.4 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.
- 1.5 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 sqm., to the north west of the Warrington Borough. The Order Land comprised 12 plots along Clay Lane and Burtonwood Road, running generally between the village of Burtonwood and the roundabout to the north of Junction 8 of the M62.
- 1.6 Section 5 of this Statement sets out proposed modifications to the Order that the Acquiring Authority is seeking, which reduces the total area to 8,635 sqm and increases the total number of plots to 13. Full details of the interests to be acquired are listed in the schedule accompanying the Order ("the Order Schedule") [**document 1**].
- 1.7 The full extent of the Order Land is set out in greater detail in Section 8 and identified on the map accompanying the Order (the "Order Map") [**appendix 1 to the Council's Statement of Case**], with the intention that the confirmation of the Order will be sought with modifications (as set out further in Section 5 of this Statement). The Order seeks to acquire all legal interests in the land coloured pink on the Order Map. 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 [**appendix 2 to the Council's Statement of Case**].

- 1.8 On 8 October 2018, the Executive Board of the Acquiring Authority resolved to make the Order, reserving to officers delegated powers to refine the Order and its associated ancillary documents [**appendix 3 to the Council's Statement of Reasons**].
- 1.9 The Order was sealed and dated by the Acquiring Authority on 18 April 2019 [**document 1**]. Notices of the making of the Order were published in the Warrington Guardian on 25 April 2019 and 2 May 2019 [**document 2**]. Notice was served on all persons having an interest in the Order Land [**document 3**], together with a copy of the Order [**document 1**], Order Map [**appendix 1 to the Council's Statement of Reasons**] and the accompanying Statement of Reasons ("SoR") [**document 4**]. Notices were posted on site in respect of plots of land and in respect of the order generally [**document 3**]. Copies of the Order and Order Map were put on public deposit for inspection at Contact Warrington, 26-30 Horsemarket Street, Warrington WA1 1XL. A General Certificate was signed on behalf of the Council on 21 May 2019 [**document 5**].
- 1.10 The Order was submitted for confirmation by the Secretary of State for Transport, at the offices of the National Transport Casework Team, Tyneside House, Skinnerburn Road, Newcastle Business Park, Newcastle upon Tyne NE4 7AR on 25 April 2019.
- 1.11 This Statement of Case considers the proposed Scheme in detail and provides a response to the objections of Shun Kai Ye and Liu Jiao Ye [**document 19**], Steve Holding and Sharon Wilson [**document 20**] and Alexander Abbey [**document 21**], which were lodged in respect of the Order ("the Objections"). It also sets out the case that the Acquiring Authority will put before the Secretary of State in support of the request for him (by virtue of the appointment of an Inspector acting on his behalf) to confirm the Order with modifications as set out further in Section 5 of this Statement. A more detailed response to the objections will be provided within the Acquiring Authority's proofs of evidence in due course.

2. THE ORDER LAND

- 2.1 The Order Land consists of 13 plots of land (please note that the Statement of Reasons incorrectly referenced 13 plots at paragraph 8.1 at the time that there were only actually 12 plots; however with the modifications to the Order proposed at Section 5 of this Statement, the Order Land does increase to 13 plots). These plots are within a number of different ownerships, including freehold and occupational interests, all situated adjacent to Clay Lane and Burtonwood Road. Full details of the interests to be acquired are listed in the Order Schedule [**document 1**] as modified by the Revised Order Schedule [**document 6**] and are shown on the Order Map [**appendix 1 to the Council's Statement of Reasons**] as modified by the Revised Order Map [**document 7**]. The boundaries of the Order Land are shown in red on the Order Map [**appendix 1 to the Council's Statement of Reasons**], with modifications shown in green edging on the Revised Order Map [**document 7**].
- 2.2 There is no requirement generally throughout the length of this linear Scheme to encroach into subsoil and, as such, the Mining Code has been incorporated into the Order, as further detailed in Section 8 of this Statement of Case.

Clay Lane: Plots 1 - 6

- 2.3 Plots 1 (including Plot 1a) and 2 are in the freehold ownership of the Ye family. Plot 1 consists of garden/agricultural land, private access, hedgerow and pond, and Plot 2 is agricultural land and hedgerow. These plots of land immediately abut the existing highway boundary and are required in order to accommodate the extended highway to facilitate the development of the integral cycleway with a right of way of foot, highway drainage and the required construction space. The private access way will be set back on its current alignment and no new private access is required. There is a dropped kerb access to Plot 2 which will be retained as part of the Scheme.
- 2.4 Plots 3 and 4 are in the ownership of Mr Holding and Ms Wilson, and are subject to an agricultural tenancy in favour of Carol Addison. These plots are agricultural land and scrubland and Plot 4 also includes part of public footpath 25 (please note that the Council's Statement of Reasons [**document 4**] incorrectly references this as public footpath number 28 in places, though the Order itself is correct), which will remain as part of the Scheme, and pedestrians will join and leave the footpath as they did before. These plots of land immediately abut the existing highway boundary and are required in order to accommodate the extended highway to facilitate the development of the integral cycleway with a right of way of foot, highway drainage and the required construction space. Access to Plot 3 is via the dropped kerb in Plot 2 mentioned at 2.3 above. This is currently being used by the tenant farmer (Carol Addison) to access Plot 3 through an informal agreement between the Ye family and the Holding/Wilson family. There is also a dropped kerb access to Plot 4. Both of these dropped kerb accesses will be retained as part of the Scheme.
- 2.5 Plots 5 and 6 are in the ownership of the Ditchfield Estate and are farmed agricultural land, scrubland and public footpath 25. Again, these plots are required for the same purpose as Plots 3 and 4.

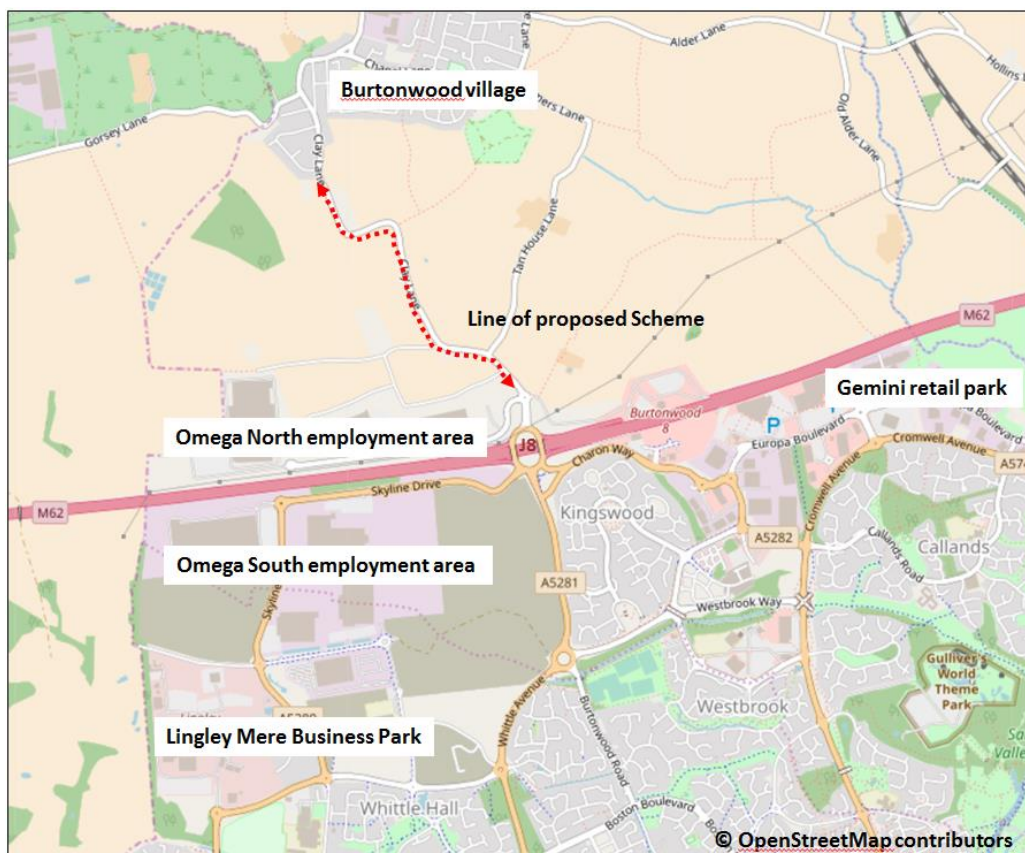
Burtonwood Road: Plots 7 – 12

- 2.6 Plots 7, 8 and 9 are owned by Mr Artess or Arterior Developments Ltd (Mr Artess's company) and form land at Finger Post Farm or open land adjacent to Finger Post Farm. Plot 8 includes the garden wall of the property, which will need to be set back in order to accommodate the extended and improved highway.
- 2.7 Plots 10 and 11 are also owned by the Ditchfield Estate and consist of agricultural land, hedgerow, scrubland and grass verge adjacent to the current highway boundary. These plots are required in order to accommodate the extended highway to facilitate the development of the integral cycleway with a right of way of foot, highway drainage and the required construction space.
- 2.8 Plot 12 is owned by Homes England and consists of scrubland at the junction with Wright's Lane. This plot is required in order to accommodate the extended highway to facilitate the development of the integral cycleway with a right of way of foot, highway drainage and the required construction space.

3. BACKGROUND AND NEED FOR 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 The Burtonwood Transport Study carried out in May 2015 ("the Transport Study") [appendix 5 to the Council's Statement of Reasons], 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 40mph for most of its length, which changed in April 2019 from 60mph (since the Council's Statement of Reasons was finalised). 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



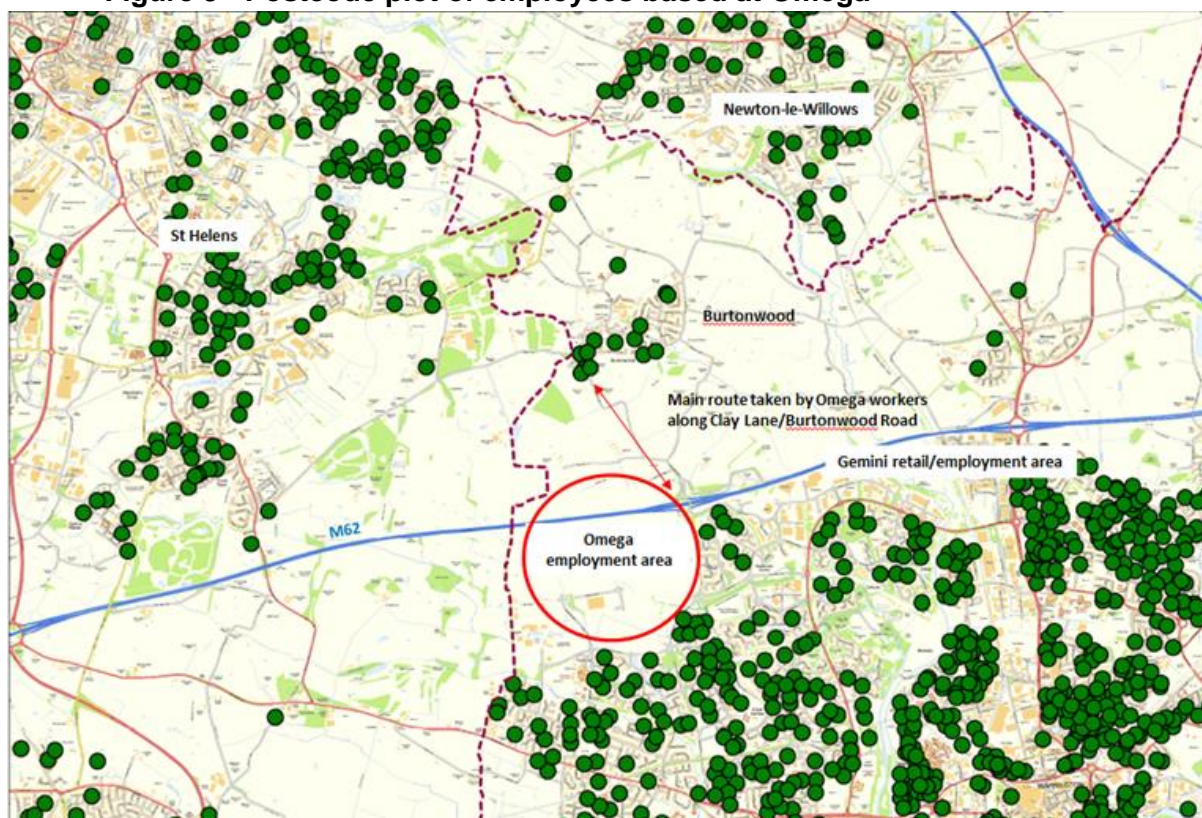
- 3.5 Taking all of this into account, it is an unpleasant and dangerous route, which is a deterrent to anyone wishing to walk and/or cycle along its length.
- 3.6 Part of the planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) for the Omega Business Park (detailed further at paragraph 10.7) [**appendix 6 to the Council's Statement of Reasons**] 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.
- 3.7 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 Statement of Reasons**], 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 Statement of Reasons**].

Jobs and the journey to work

- 3.8 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

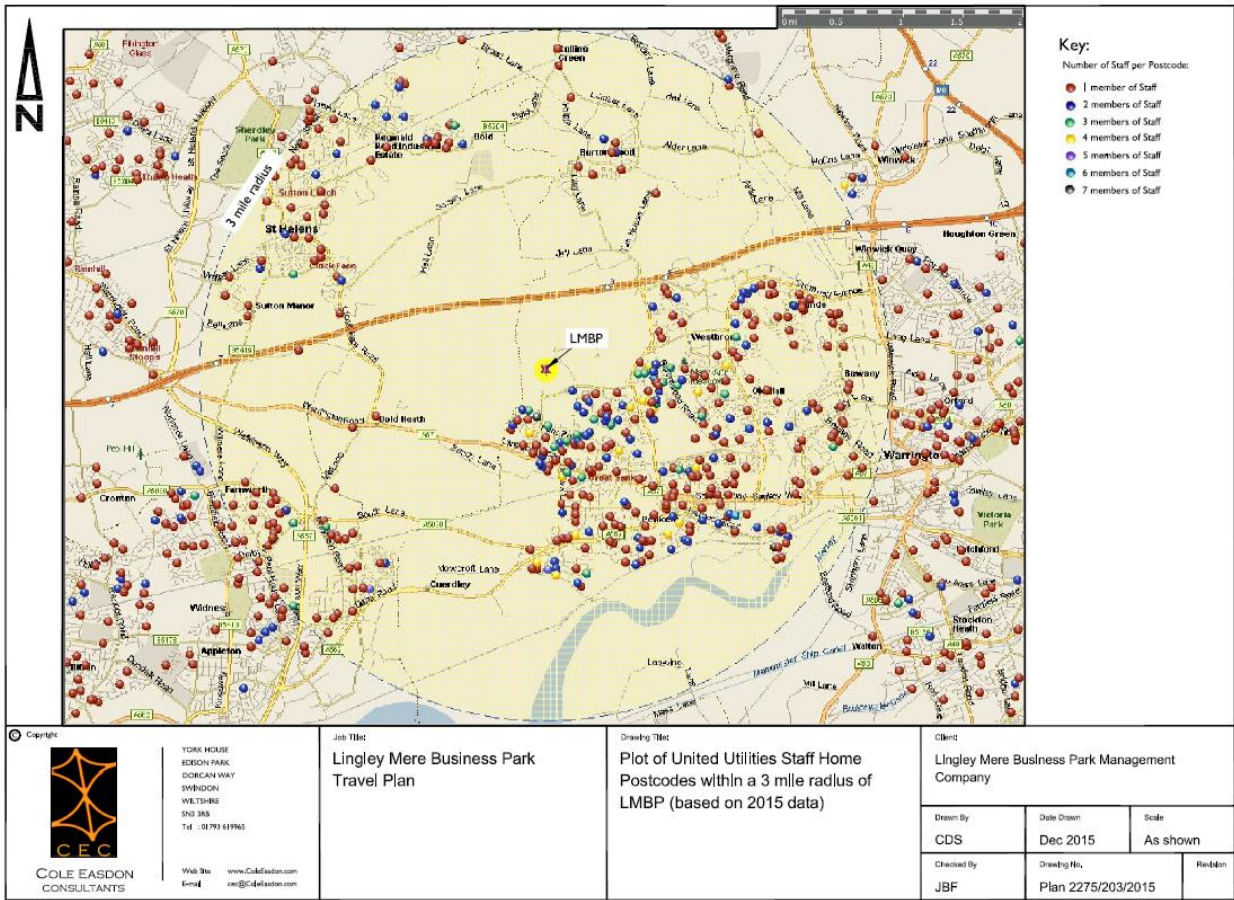
more people may live and have jobs based at Hermes, Travis Perkins, Brakes, Amazon, and The Hut Group, which are all located within the Omega employment area. This shows that some Burtonwood residents currently work at those companies and a few others live just over the border in St Helens and Newton-le-Willows. 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 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 in this postcode. 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 4 - Postcode plot of employees based at United Utilities office, Lingley Mere

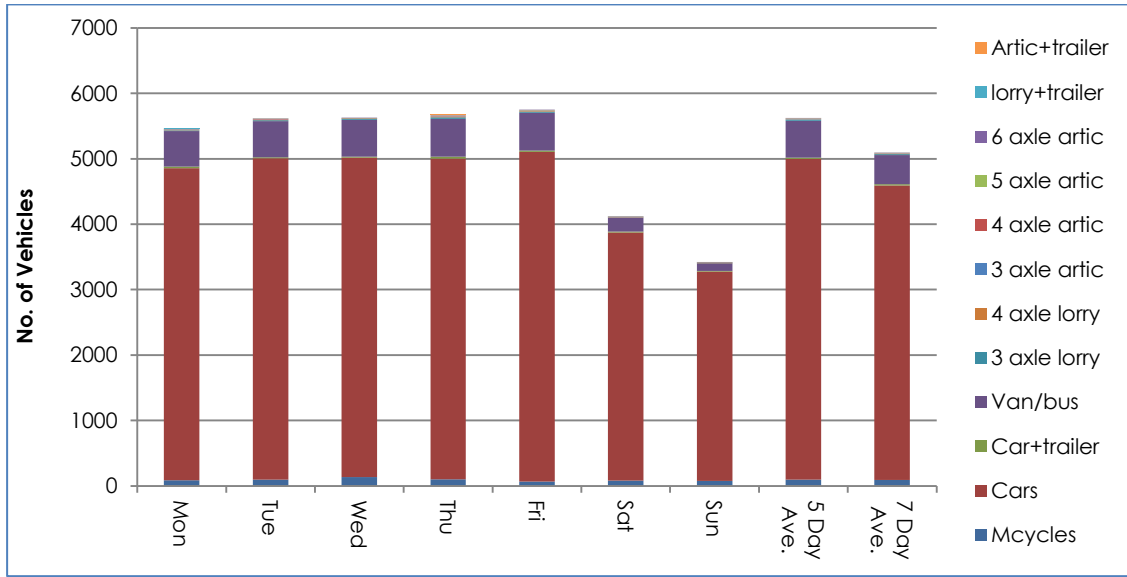


3.10 There is limited equivalent data for people who work at Gemini, but the public consultation events that informed the Transport Study [appendix 5 to the Council's Statement of Reasons] revealed that there are many people who work at Gemini and who have a desire to travel in a more sustainable and safe way. Their main stated 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 speed of some traffic using this route.

Traffic flows and speeds

3.11 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 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. 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



4. 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 8 on the M62 (please note that paragraph 4.1 of the Statement of Reasons incorrectly references Junction 11 of the M62).
- 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 to the Council's Statement of Reasons**] 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 to the Council's Statement of Reasons**]. 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. 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.
- 4.6 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.
- 4.7 All works constitute highway improvements and can be undertaken by the Acquiring Authority under its general improvement powers under Part V of the Highways Act 1980. This has been confirmed by way of a Certificate of Lawfulness of Proposed Development ("CLOPUD") granted pursuant to Section 192 of the Town and Country Planning Act 1990 (as amended) and issued on 2 May 2019 [**document 10**]. The Scheme constitutes permitted development pursuant to Schedule 2, Part 9, Class A of the Town and Country Planning (General Permitted Development (England) Order 2015 ("the GPDO") as further detailed in Section 6 of this Statement. As such, there are no planning impediments to the Scheme.

5 AMENDMENTS TO THE SCHEME AND THE ORDER

- 5.1 As a result of negotiations with the Ye family (further set out in paragraphs 9.6-9.10 of this Statement), the Council reviewed the Scheme and has determined that it can deliver a viable Scheme, which achieves the intended objectives, by reducing the land take very slightly at Plot 1.
- 5.2 There is an area of Plot 1 which it is intended can be secured by way of a temporary licence to enable construction works to take place. There is also an area of Plot 1 over which permanent acquisition will be required. On this basis, Plot 1 is proposed to be amended to split into two plots, identified as Plot 1 and Plot 1a, and shown edged in green on the Revised Order Map [**document 7**].
- 5.3 Plot 1 is an area of 646 sqm, which is required permanently for the Scheme and is, therefore, identified as pink land on the Revised Order Map [**document 7**] and described in the Revised Order [**document 6**].
- 5.4 Plot 1a is an area of 207 sqm, which is required for the purposes of construction and will not be available to the current landowner during the construction period. On this basis, this plot is included in the Revised Order Map [**document 7**] as pink land; however, this has been split into a different plot from Plot 1 as it is intended that a licence can be agreed for the temporary exclusive possession of Plot 1a to enable construction, with the licence then ending and ultimate ownership of Plot 1a being retained by the Ye family.
- 5.5 This amendment to the Scheme, and to the Order Schedule and Order Map, has resulted in the original size of Plot 1 (860sqm) being split into two plots with a combined total area of 853 sqm, therefore reducing the Order Land by 7 sqm.
- 5.6 Albeit that there is no express agreement from the Ye family to these Scheme and Order changes, the Council is of the opinion that this modification is a more viable solution to the Scheme in any event and so asks the Secretary of State to confirm the Order with the modifications as proposed in the Revised Order [**document 6**] and Revised Order Map [**document 7**], and as further shown on the Revised General Arrangement Drawing [**document 9**].

6 PLANNING POLICY SUPPORT

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 The Statement of Reasons [**document 4**] 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 process of the Order. The main points have been summarised below:

6.3 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") – see section 6.14".

6.4 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"

6.5 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 and this is described in paragraph 6.13.

6.6 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.

6.7 The **Warrington Local Transport Plan** ("LTP") helps address local transport issues by:

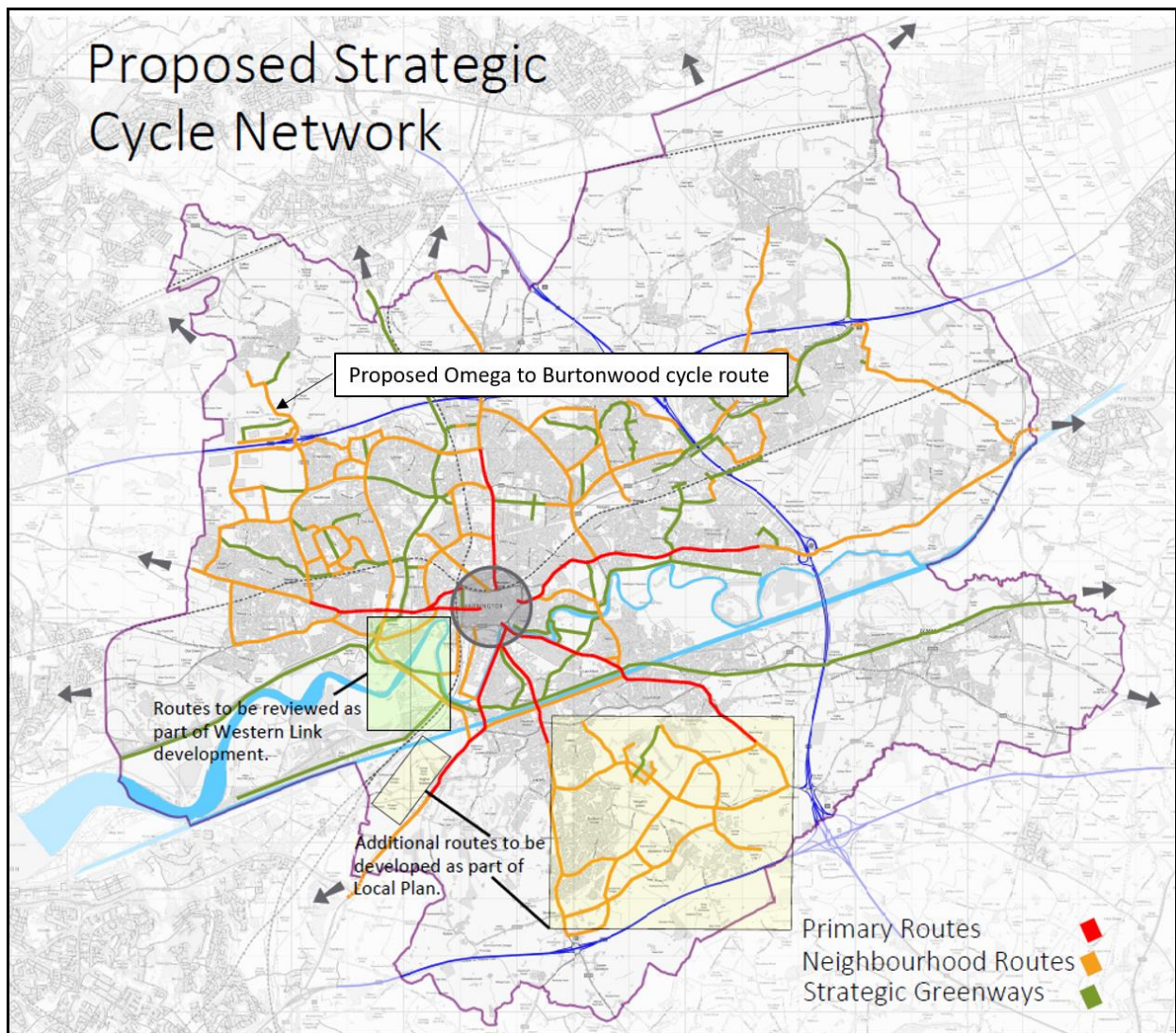
- Providing a framework for decisions on future investment;
- Setting objectives for transport to support our wider goals and ambitions;
- Establishing policies to help us achieve these objectives; and
- Containing plans for implementing these policies.

6.8 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."

- 6.9 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.
- 6.10 The Council has drafted its fourth LTP 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. A draft aspirational cycle network has been produced which includes the Burtonwood and Omega cycle link as a key neighbourhood route linking the village of Burtonwood to the rest of Warrington.
- 6.11 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.
- 6.12 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..
- 6.13 The Warrington LCWIP has identified an aspirational network which is made up of greenways, neighbourhood routes and primary routes as shown in Figure 6 below. The Omega to Burtonwood scheme would be a neighbourhood route linking the village of Burtonwood to the rest of Warrington.

Figure 6 – Proposed Strategic Cycle Network for Warrington



Growth Agenda

6.14 As set out in the Council's Statement of Reasons, the Scheme is compliant with key policy documents at the sub-regional level that are driving the need for increased economic growth, including:

- *Cheshire and Warrington Matters* – a Strategic Economic Plan and Growth Plan for Cheshire and Warrington LEP [**appendix 10 to the Council's Statement of Reasons**]; and
- Cheshire and Warrington Growth Deal [**appendix 7 to the Council's Statement of Reasons**].

Other Non-Transport Local Strategies

6.15 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:

- Warrington Borough Council Corporate Strategy (2018-20) [**appendix 12 to the Council's Statement of Reasons**]
- Warrington Local Plan Core Strategy (2014) [**relevant policies referred to in the Council's Statement of Reasons [document 4]**]
- Warrington Means Business (2017) [**appendix 13 to the Council's Statement of Reasons**]
- Health and Wellbeing strategy (2015-18) [**appendix 14 to the Council's Statement of Reasons**]
- Air Quality Action Plan (2018) [**appendix 15 to the Council's Statement of Reasons**]

Planning Consent

- 6.16 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."

- 6.17 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.
- 6.18 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**].

Summary

- 6.19 In summary, the Scheme is supported by national and local strategies and policies at all levels and does not require planning permission. As such, there are no planning

impediments to the Scheme.

7. ENABLING POWERS AND IMPLEMENTATION

7.1 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. The Guidance states that:

"...compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change. Used properly, they can contribute towards effective and efficient urban and rural regeneration, essential infrastructure, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life."

7.2 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.'*

7.3 Section 239(3) of the 1980 Act provides that a highway authority may acquire land required for the improvement of a highway. Section 246 provides that a highway authority may acquire land for the purpose of mitigating any adverse effect which the existence or use of a highway constructed or improved by them, or proposed to be constructed or improved by them, has or will have on the surroundings of the highway. In the event that any of the Order Land is acquired privately prior to the confirmation of the Order, Section 260 is included so that such land, which would be acquired for the Council's highway purpose, can be cleansed of third party interests, allowing delivery of the Scheme.

7.4 As set out further in Section 10 of this Statement of Case, the Acquiring Authority believes that there is a compelling case in the public interest for promoting and seeking confirmation of the Order (Paragraph 12 of the Guidance). The purpose for which the Order is being made sufficiently justifies interfering with the human rights of those with an interest in the land affected.

7.5 For the reasons set out above the Acquiring Authority's exercise of its powers of compulsory purchase under Sections 239, 240, 246 and 260 of the 1980 Act is considered appropriate and the Scheme complies with the relevant Guidance.

7.6 It is intended that a General Vesting Declaration ("GVD") or a number of GVDs will be made by the Acquiring Authority in respect of the Order Land, in the event that the Order is confirmed by the Secretary of State. There may also be a necessity to implement compulsory purchase powers in relation to some plots of the Order Land by way of Notices to Treat and Notices of Entry.

7.7 The final decision in relation to implementation powers to be used will be governed by the implications in timing for the development programme for the Scheme. In line with the Guidance, the Acquiring Authority will give notice to all persons directly affected by the Order at the earliest possible opportunity, to allow sufficient time for possession to be taken. Compensation will be paid accordingly. Mortgages and rent charges are to

be dealt with in accordance with the relevant provisions of the Compulsory Purchase Act 1965.

8. DESCRIPTION OF THE INTERESTS TO BE ACQUIRED AND EXTINGUISHED

8.1. The Order Schedule [**document 1**] lists all parties with a qualifying interest in the Order Land as defined by Section 12(2) of the Acquisition of Land Act 1981 including:

8.1.1. Owners, tenants and occupiers of the Order Land;

8.1.2. Those with the benefit of rights within the Order Land or restrictive covenants that affect titles that make up the Order Land; and

8.1.3. All other parties with a power to sell, convey or release an interest or right over the Order Land and any parties entitled to make a compensation claim under Section 10 of the Compulsory Purchase Act 1965.

8.2. The Order Schedule has been prepared following extensive inquiry by the Council based upon information gathered through inspection of the Land Registry Title documents, site inspections and enquiries, and the responses to formal requisitions for information.

8.3. The legal interests to be acquired within the Order Land are shown as plots numbered 1-12 edged red on the Order Map [**appendix 1 to the Council's Statement of Reasons**] as amended by the Revised Order Map [**document 7**] (with modifications edged in green). This red edging identifies freehold interests which need to be acquired or, alternatively, where covenants, easements or other legal and equitable third party interests exist, which will be permanently removed as part of the Scheme and, therefore, need to be cleansed from the titles to the relevant plots. There are no leasehold interests to be acquired as part of the Scheme and there is no acquisition of new rights in the Order Land.

8.4. A brief description of the land and legal interests to be acquired are set out in the following paragraphs:

Plot 1 (Plots 1 and 1a, as revised)

8.5. Plot 1 is held by way of a freehold interest in favour of Lui Jiao Ye and Shun Kai Ye and is registered at HM Land Registry under Title Number CH542957 [**document 11**]. Third party rights over Plot 1 exist in favour of both known and unknown parties, together with a charge in favour of Lloyd's Bank plc.

Plot 2

8.6. Plot 2 is held by way of a freehold interest in favour of Wing Hong and Wing Say Ye and is registered at HM Land Registry under Title Number CH657425 [**document 12**], with reputed ownership by way of access rights in favour of Mr Steve Holding and Ms Sharon Wilson, and a tenancy in favour of Carol Addison. Third party rights over Plot 2 exist in favour of known and unknown parties.

Plot 3

- 8.7 Plot 3 is held by way of a freehold interest in favour of Mr Steve Holding and Ms Sharon Wilson and is registered at HM Land Registry under Title Number CH586415 [document 13]. Plot 3 is subject to the same tenancy as Plot 2. Third party rights over Plot 3 exist in favour of known and unknown parties.

Plot 4

- 8.8 Plot 4 is held by way of a freehold interest in favour of Mr Steve Holding, Ms Elizabeth Holding and Ms Sharon Wilson and is registered at HM Land Registry under Title Number CH586446 [document 14]. Plot 4 is subject to the same tenancy as Plots 2 and 3. Third party rights over Plot 3 exist in favour of known and unknown parties.

Plot 5, 6, 10 & 11

- 8.9 Plots 5, 6, 10 and 11 are held by way of a freehold interest in favour of Gillian and James Ditchfield, as executors to Keith James Ditchfield and are registered at HM Land Registry under Title Number CH136701 [document 15]. Third party rights exist over the land in favour of known parties.

Plots 7, 8 & 9

- 8.10 Plots 7, 8 and 9 are held by way of a freehold interest in favour of Mr Sean Artess or Arterior Development Ltd (Mr Artess's company) and is registered at HM Land Registry under Title Numbers CH136982 and CH136983 [documents 16 and 17]. Plots 7 and 8 are subject to a legal charge and Plot 9 is subject to known rights in favour of Mr Artess and the Ditchfields.

Plot 12

- 8.11 Plot 12 is held by way of a freehold interest in favour of Homes England and is registered at HM Land Registry under Title Number CH509156 [document 18]. Plot 12 Third party rights over Plot 12 exist in favour of known parties.

Incorporation of the Mining Code into the Order

- 8.12 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.
- 8.13 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.
- 8.14 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.

- 8.15 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.

9. EFFORTS TO ACQUIRE BY AGREEMENT

- 9.1. During the preparation and making of the Order, the Acquiring Authority has fully considered the 'Guidance on compulsory purchase process and the Crichel Down Rules' published by the Ministry of Housing, Communities and Local Government.
- 9.2. In accordance with this guidance, the Acquiring Authority has been making all reasonable efforts to progress negotiations to acquire the Order Land by agreement and, in June 2018, it appointed Axis Property Consultancy LLP ("Axis") (a subcontractor to Lambert Smith Hampton) to negotiate the land acquisitions on its behalf.
- 9.3. Negotiations with the landowners have been ongoing and the Acquiring Authority is seeking to acquire these legal interests in advance of compulsory purchase. All owners and occupiers affected by the Order have been contacted and have been invited to enter into discussions with the Council via the Council's appointed surveyors, Axis, with a view to agreeing appropriate terms for acquisition and/or for payment of compensation.
- 9.4. The Council, via Axis, will continue to seek to agree private acquisitions of land and interests prior to, and following, confirmation of the Order, until such time as the Council decides to exercise its powers under the Order.
- 9.5. The efforts to acquire land and property undertaken by Axis since its appointment are summarised briefly below.

The Ye Family – Plots 1 (Plots 1 and 1a, as revised) & 2

- 9.6. The Landowner is the owner occupier of Clay Lane Farm. Initial attempts to contact the Landowner began in September 2018 and a meeting took place in late October 2018. This was followed by an offer to acquire the land that is required for the Scheme in December 2018.
- 9.7. In January 2019, the Landowner raised queries relating to access and the impact of the Scheme on the existing pond; responses were duly provided. Further attempts to progress matters were made by the Acquiring Authority during February, March and April 2019, with little success.
- 9.8. In May 2019, the Landowner appointed a Surveyor and submitted a formal objection to the CPO [document 19]. A meeting took place soon afterwards to discuss the Landowner's concerns. This resulted in a further review of the Scheme and the Council agreeing to reduce its land requirements, as detailed in Section 5 of this Statement. This was conveyed to the Landowner in correspondence dated 19 June 2019.
- 9.9. During July 2019, further discussions took place regarding boundary treatments and accommodation works. A site meeting took place in August 2019 and, on 22 August 2019, the Acquiring Authority set out details of the updated proposed accommodation works. At the time of writing, no agreement has been reached but the Council is content to modify the Scheme to take account of the Landowner's concerns, and is

confident that the Scheme as modified is still viable, deliverable and justified.

- 9.10 The Acquiring Authority continues to work with the Landowner to acquire the land by agreement.

Mr Holding & Ms Wilson – Plot 3 & 4

- 9.11 Attempts to contact the Landowners commenced in September 2018 and continued without success through to January 2019.
- 9.12 In February 2019, contact was made with the Landowner and a Surveyor was appointed. In April 2019, a meeting took place on site and concerns relating to drainage and access were raised. A response to these queries was provided shortly afterwards.
- 9.13 The Landowner raised a formal objection to the CPO in May 2019 [**document 20**] and a formal response was provided in June 2019. Since then, discussions have continued and, at the time of writing, the Acquiring Authority is hopeful of agreeing terms to enable the withdrawal of this objection.

The Ditchfield Family – Plot 5, 6, 10 & 11

- 9.14 The Acquiring Authority first wrote to the Landowner in September 2018 and attempts to make contact continued through to December 2018. A meeting took place in January 2019 and an offer to acquire the land was made shortly afterwards in February 2019.
- 9.15 The Landowner appointed a Surveyor in February 2019 and dialogue continued thereafter, with a further meeting taking place in March 2019. During this meeting, concerns were raised in relation to access and drainage and responses were provided accordingly.
- 9.16 Since this time, an updated offer has been made in respect of the land required for the Scheme and dialogue is ongoing in relation to the terms of acquisition. The Acquiring Authority will continue to work with the Landowner to acquire the land by agreement and is hopeful of doing so.

Mr Artess & Arterior Developments Ltd – Plots 7-9

- 9.17 The Acquiring Authority commenced discussions with the Landowner in June 2018 and, following a period of negotiation, terms were agreed for the acquisition of the land required for the Scheme. The matter is now being progressed through to legal completion.

Homes England – Plot 12

- 9.18 The Acquiring Authority first wrote to the Landowner in September 2018; however, it was not until March 2019 that active dialogue commenced. Following initial discussions, the Acquiring Authority made an offer for the land and a period of negotiation has subsequently taken place. At the time of writing, terms are provisionally agreed and the matter is now being progressed through to legal completion.

Summary

- 9.19 The Order proposals have been extensively publicised and consultation has taken place with the communities that will be affected by the Order. All those affected by the Order have been notified and, where objections have been received, those parties will have the opportunity to be heard at the local Public Inquiry before a decision is made on whether or not the Order should be confirmed. The Council has actively engaged with landowners and others in an effort to secure interests by agreement, and remains committed to pursuing those efforts. Any disputes as to compensation payable in relation to the acquisition of the relevant interests will be determined by the Upper Tribunal (Lands Chamber).

10. JUSTIFICATION FOR THE USE OF COMPULSORY PURCHASE POWERS

Appropriateness of Powers

- 10.1 The Acquiring Authority's Scheme for the improvement of the road network is clearly within the scope of the compulsory purchase powers as set out in Sections 239, 240 and 246 of the 1980 Act. There are no new rights to be acquired (hence no inclusion of Section 250 of the Highways Act 1980), as all plots included within the Order are required in their entirety and so are included in the Order Map as "pink land", with no "blue land" denoting the acquisition of new rights. 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

- 10.2 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. The central benefit of the Scheme is that it provides 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 it minimises the number of crossing points of Burtonwood Road/Clay Lane, which might otherwise have placed the user at risk of a collision with motor vehicles on the road.
- 10.3 There are other wider, strategic benefits to the Scheme, which are ancillary and include:
- To improve the health of residents by allowing them to travel in a more sustainable manner;
 - 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;
 - To improve the quality of life for residents by creating a more pleasant travelling environment;
 - To provide better economic opportunities for residents by providing better non car access to the employment areas in north west Warrington; and
 - 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.

- 10.4 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 CPO to secure the Order Land required for the purpose of implementing and delivering the

Scheme.

Need for the Order Land

- 10.5 The Acquiring Authority's approach is to only acquire land compulsorily where it is strictly needed to ensure successful delivery of the Scheme in accordance with best engineering and environmental practices.
- 10.6 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 [**appendix 1 to the Council's Statement of Reasons**] as amended by the Revised Order Map [**document 7**] and described further in Section 8 of this Statement, and the Acquiring Authority has a very clear idea how it will use the land it intends to acquire.
- 10.7 Without the land owned by the Ye family, and that of Mr Holding & Ms Wilson, the subject of the Statutory Objections [**documents 19 and 20**], the Scheme could not be delivered. The only scheme that could be delivered in the absence of this land would be different and undesirable. Alternative schemes have been fully considered but are ultimately much less effective, and will not deliver the central benefit of adequately addressing public safety for pedestrians and cyclists (and would be less effective in delivering the associated benefits set out at paragraph 10.3 above).

Deliverability and Viability

- 10.8 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.
- 10.9 The total budget allocated to the scheme is £1.65m, which will be met from a package of public and private funding. This includes an indicative allocation of £500,000 from the Cheshire and Warrington Local Enterprise Partnership as part of the LGF3 Cheshire and Warrington Growth Deal. As the Scheme is coming forward with LGF3 funding it has to meet a deadline of March 2021. A further £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 to the Council's Statement of Reasons**]. The remaining cost is met by funds from Capital borrowing of £0.90 million, approved by the Executive Board in April 2018 [**appendix 8 to the Council's Statement of Reasons**] to enable the full delivery of the Scheme.

Timescales for Implementation

- 10.10 The current intention, following local Public Inquiry in November 2019, is that in the event the Order is confirmed by the Secretary of State, implementation will take place as soon as possible (we predict by May 2020 in the event of Inquiry but February if the withdrawal of objections can be secured), allowing the construction contracts for the works to be let by the end of June 2020. Works would then be due to commence on site at the start of August 2020, completing circa 6 months later. It should be noted that these dates have been amended from that set out in the Council's Statement of Reasons to account for the

fact that, at that time, the Council anticipated that any Inquiry was likely to take place in August/September 2019.

Conclusions

- 10.11 The Acquiring Authority considers that there is a compelling case in the public interest whereby public benefits associated with delivery of the Scheme 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 (as set out below), in order to secure the benefits that the Scheme will bring.
- 10.12 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.
- 10.13 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.
- 10.14 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.

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:
- 11.2.1 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;
- 11.2.2 Article 6 entitles those affected by the powers sought in the Order to a fair and public hearing by an independent and impartial tribunal;
- 11.2.3 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:
- 11.3.1 the statutory procedures for obtaining the Order are followed and there is a compelling case in the public interest for the Order; and
- 11.3.2 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 10) 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. There has been ongoing consultation with the local communities

including attendance at public meetings, discussions with ward members, and responding to specific enquiries from the public and from the affected landowners. All parties that will be affected by the Order were contacted in April 2019. 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. A public information exercise will be held prior to the construction of the scheme to explain the construction process and programme.

- 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 improve and widen the existing highway (to an acceptable degree) and provide the associated mitigation measures. This has included amending the Scheme slightly at Plot 1, in order to address the concerns of the statutory objector. The amendments to the Scheme are set out in Section 5.
- 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.
- 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 public benefits which the Scheme will bring.

12 OBJECTIONS TO THE ORDER

12.1 The statutory objection period in relation to the Order closed on 17 May 2019. In total, three objections were submitted to the Secretary of State, as follows:

- Shun Kai Ye and Liu Jiao Ye [**document 19**] lodged on 16 May 2019
- Steve Holding and Sharon Wilson [**document 20**] lodged on 16 May 2019
- Alexander Abbey [**document 21**] lodged on 17 May 2019

12.2 The first and second objections listed above are together taken to be Statutory Objections and the third, from Mr Abbey, is a non-statutory objection. In accepting the objection from Mr Abbey, the Secretary of State directed that only paragraphs 3 and 4 of the objection would be considered by the Secretary of State and, as such, it is these paragraphs alone that this Statement of Case considers.

The Objections and the Acquiring Authority's Response

Shun Kai Ye and Liu Jiao Ye

12.3 The objection on behalf of the Ye family relates to Plot 1 (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 only). Following the Council's proposed modification detailed at Section 5 of this Statement, this objection would also relate to Plot 1a.

12.4 The objection is on the basis of the need for reinstatement works and that the scheme could be achieved without affecting their land ownership. This largely relates to a pond in situ on the site. No information has been provided by the Ye family or their agent as to other proposals which do not impact their land ownership at all.

12.5 A proposal has been discussed 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. The Ye family have also expressed concern about the loss of an established hedgerow and have, therefore, been offered a “living fence”. At the time of preparing this Statement of Case, no confirmation of agreement to that proposal has been received from the Ye family but the Council continues to try to reach a conclusion on this matter.

Steve Holding and Sharon Wilson

12.6 The objection on behalf of Mr Holding and Ms Wilson relates to Plot 3, being agricultural land adjacent to Clay Farm. It should be note that the objection letter itself does not state plot numbers but in conversations with the Council, it was established that Mr Holding's concerns related to Plot 3. The objection is on the

basis of the need for access to the land in Plot 3, which is currently being enjoyed informally from the highway at Plot 2 and Plot 4. This objection also claims that the scheme could be achieved without affecting the Holding & Wilson land ownership. No information has been provided by Mr Holding, Ms Wilson or their agent as to other proposals which do not impact their land ownership at all.

- 12.7 The Scheme currently takes in the land at Plot 2 where the informal access lies and Mr Holding is concerned that his agricultural land at Plot 3 will not be accessible post-Scheme, due to a lack of control over Plot 4, which is now owned by Ms Wilson.
- 12.8 The Council anticipates that there is the possibility that this objection will be withdrawn as a result of ongoing negotiations, but the Council is unable to comment on the timing of such withdrawal.
- 12.9 In the event that the objection is not withdrawn, the Council will rely upon the fact that the right of access to Plot 3 from the highway and over Plot 2 is an informal access, with no formal deed of easement or rights reserved. In acquiring Plot 2, the Council is willing to provide an access to Plot 3 but only in such a way so as not to prejudice the safety of the Scheme or the efficacy of the extended and improved highway. Mr Holding would still enjoy access to Plot 3 and this, therefore, replicates the current informal right that he has with the owners of Plot 2, which does not delineate a line of access.

Alexander Abbey

- 12.10 Mr Abbey is a non-statutory objector who objected within the representation period, albeit that the objection [**document 21**] wasn't received by the Council until after the close of the representation period. 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.
- 12.11 The two points of objection that the Secretary of State has directed shall be addressed are:

"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."

"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."

12.12 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. The Council acknowledges that where pupils live either over 3 miles away from school or less than 3 miles but there is no safe walking route, the Council is required to provide free bus passes. The Council understands the point made by Mr Abbey that the Scheme will make Burtonwood Rd/Clay Lane, which are both currently unsafe for pedestrians, safe and usable roads. The fact that some of the Burtonwood pupils who live less than 3 miles away from their schools, may no longer be eligible for free school transport is not disputed. The Council will, however, act in accordance with relevant legislation contained within Section 508B of the Education Act 1996 (as amended) [**document 22**], which states:

S508B(1): "A local authority in England must make in the case of an eligible child...such travel arrangements as they consider necessary in order to secure that suitable home to school travel arrangements...are made and provided free of charge in relation to the child."

12.13 An eligible child is one who is outside of the statutory walking distance (3 miles), where the route is unsafe, or those children with extended rights (as further detailed at 12.14 below). The Council will also act in accordance with the Warrington Borough Council Home to School Transport Policy [**document 23**].

12.14 At present, there are 156 school aged pupils living in Burtonwood entitled to claim free transport assistance. Of these, 133 are in receipt of free travel as they live more than the statutory distance (3 miles) from their nearest suitable school; 10 are eligible due to meeting the extended rights criteria, which constitutes means testing for those families who are eligible; 12 pupils are eligible due to the hazardous nature of the route, albeit that they are within the 3 mile area; and one pupil was awarded free travel following a successful appeal.

12.15 The Council would agree that, in line with legislation and the Warrington Borough Council Home to School Transport Policy [**document 23**], that it is unlikely that free transport would continue to be granted to the 12 pupils who are currently eligible for free transport on the basis of the hazardous nature of the road, on the basis that the most hazardous part of the route will have been improved by the Scheme. This represents 7% of those currently entitled to free travel that would cease to benefit from free travel in the future; however, these 12 pupils would still be able to access the school bus as fare paying passengers and they also have the right to appeal to obtain a free pass on a variety of grounds. For those that can't afford the cost of the bus fare, the extended criteria of means testing may allow some of these pupils to still qualify for free bus passes.

12.16 Hilton's Travel operate a commercial bus service that links the Burtonwood area to Great Sankey High School and Hope Academy. The service to Great Sankey High School also accommodates some pupils from the St Helens and Newton-le-Willows areas. 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 on the current data, the Council still believes that there still is an overwhelming likelihood

that the service would remain, with a small number of students who no longer qualified for a free bus pass having to pay the prevailing bus fare each day.

- 12.17 Mr Abbey claims that the Scheme would lead to *“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.”* The Council’s response is that this would only apply to those families living within 3 miles of Great Sankey High School. On current data, this is a small number of students and the impacted families (those within the 3 mile distance) may still have the right to free bus passes if they qualify for such under the extended means tested criteria, where the families are on low incomes. As explained in paragraph 12.14, they would also still have the right of appeal. As such, the Scheme makes a very limited difference to the current situation and has the benefit of opening up a safe walking and cycling route.
- 12.18 Mr Abbey claims that the impact of the Scheme on school travel *“will also remove the direct feeder school status for the local primary school to one of the best schools in the town.”* The Council’s response is that this is simply not correct. Burtonwood Primary School is partnered with Great Sankey High School as part of the Omega Multi Academy Trust. Partnering arrangements do not guarantee a place at a particular secondary school but they do prioritise these pupils. If an applicant currently on roll at a partner primary school submits their application on-time and expresses a preference for the partnered secondary school, it is highly likely that they will gain a place at the partnered secondary school. The Scheme has no impact on this partnering arrangement and, as such, this element of Mr Abbey’s objection is entirely irrelevant.
- 12.19 It should be noted that parents are able to express a preference for any school, not necessarily the closest one to home. If a place is offered at the school of choice, however, the parent is responsible for making suitable travel arrangements to ensure their child is able to attend on a regular basis.
- 12.20 Mr Abbey claims that *“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.”* It is worth noting that of the 156 children eligible for school travel, 99 travel to Great Sankey High School, 43 travel to Hope Academy and 14 travel to St Greggs Catholic School. Given that approximately 2 thirds of the children in Burtonwood Village travel by bus, the data is not consistent with the claim that the bus route will be cancelled and the partnering arrangement described in paragraph 12.17 clearly shows that the Scheme has no impact on the ability for children at the partnered primary school to access Great Sankey High School.
- 12.21 Mr Abbey claims that *“there is a very real possibility that families will have siblings at various schools across the Borough.”* The Council’s response is that the Scheme has no negative impact on the availability of school places. It has already been demonstrated above that the bus service would not be affected and children would continue to make the journeys as they always have done.
- 12.22 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 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

- 12.23 In summary, the Council believes that the Statutory Objections are able to be addressed through negotiation, and is making continued efforts to do so, which it anticipates will result in the withdrawal of these objections. 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, 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.

13 OTHER REQUIRED APPLICATIONS ORDERS AND CONSENTS

Planning Permission

- 13.1 The Scheme has the benefit of the CLOPUD [**document 10**] and, therefore, has no planning impediments to delivery.

Traffic Regulation Orders

- 13.2 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

- 13.3 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

- 13.4 Neither the Scheme nor the Order Land contains any consecrated or ecclesiastical land, nor does the Scheme include any Crown Land. The Scheme includes statutory undertaker's operational land but no objections were received from statutory undertakers and there will be no serious detriment to the carrying on of any statutory undertakers' operations.

14 DOCUMENTS TO BE REFERRED TO AT THE PUBLIC INQUIRY

14.1 In the event of a local public inquiry, the Council intends to refer to or put into evidence the following documents, plans and maps:

Document number	Document name
CPO Documents	
1	The Warrington Borough Council (Omega to Burtonwood Accessibility Improvements) Compulsory Purchase Order 2019 (the Order)
2	Extract of notice and making of the Order published in the Warrington Guardian dated 25 April 2019 and 2 May 2019
3	Notice to owners of the making of the Order and site notice in respect of plots of land
4 (separate bundle)	Statement of Reasons (SoR) and appendices [please note that where SoR appendices are referred to within this Statement, the document reference given is the relevant appendix number for the SoR]
Appendices to SoR (separate bundle)	<p>Appendix 1 Order Map</p> <p>Appendix 2 Site Plan</p> <p>Appendix 3 Executive Board Minute - Approval of CPO powers (8 October 2018)</p> <p>Appendix 4 Order Schedule</p> <p>Appendix 5 Burtonwood Transport Study (May 2015)</p> <p>Appendix 6 Section 106 Agreement dated 5 June 2007 (Omega Site)</p> <p>Appendix 7 Cheshire and Warrington Growth Deal</p> <p>Appendix 8 Executive Board Minute - Approval of funding (9 April</p>

	<p>2018)</p> <p>Appendix 9 Typical cross section of the Scheme (drawing H16-018-1200-003)</p> <p>Appendix 10 Cheshire and Warrington LEP Strategic Economic Plan -Cheshire and Warrington Matters (extract)</p> <p>Appendix 11 Cheshire and Warrington LEP Strategic Economic Plan –Draft Transport Strategy (extract)</p> <p>Appendix 12 Warrington Borough Council Corporate Strategy 2018-2020 (extract)</p> <p>Appendix 13 Warrington Means Business 2017 (extract)</p> <p>Appendix 14 The Warrington Health and Wellbeing Strategy 2015-2018 (extract)</p> <p>Appendix 15 Warrington Borough Council Air Quality Action Plan 2017-2022 (extract)</p> <p>Appendix 16 Burtonwood Road/Clay Lane Preliminary Ecological Assessment Report (May 2018)</p> <p>Appendix 17 LEP Final Grant Offer Letter (5 December 2018)</p>
5	Signed General Certificate
Revised CPO Documents	
6	Revised Order
7	Revised Order Map
Scheme Drawings	
8	Original General Arrangement Drawing
9	Revised General Arrangement Drawing

Planning	
10	Certificate of Lawfulness of Proposed Use or Development granted pursuant to Section 192 of the Town and Country Planning Act 1990 (as amended) dated 2 May 2019
Property Documents	
11	Title Number CH542957
12	Title Number CH657425
13	Title Number CH586415
14	Title Number CH586446
15	Title Number CH136701
16	Title Number CH136982
17	Title Number CH136983
18	Title Number CH509156
Objections	
19	Copy objection letter from Frank Marshall Chartered Surveyors on behalf of the Ye family dated 16 May 2019
20	Copy objection letter from Frank Marshall Chartered Surveyors on behalf of Steve Holding & Sharon Wilson dated 16 May 2019
21	Copy objection email from Alexander Abbey (with covering email from NTCT) dated 17 May 2019
Education Documents	
22	Section 508B Education Act 1996 (as amended)

23	Warrington Borough Council Home to School Transport Policy
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- 14.2 The Council reserves the right to refer to any other relevant documents to address any objections which may be made, or have been made to the Order.

15 PARTIES GIVING EVIDENCE

15.1 At the forthcoming public local inquiry, the Acquiring Authority will adduce witness evidence to deal with the following subject areas:

scheme development, transport planning, and compulsory purchase justification;

technical highways engineering evidence;

negotiations with landowning parties; and

impact on school students.

15.2 The Acquiring Authority reserves the right to amend or add to this list of witness evidence or to the Statement more generally in the light of matters raised in the Statement of Case received from objecting parties to the Order.

16 CONTACTS

- 16.1 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
- 16.2 Alternatively, interested parties may write to John Nichol, (Principal Transport Planner), by one of the following means:
- 16.2.1 by telephone on 01925 443867
 - 16.2.2 by e-mail to jnichol@warrington.gov.uk
 - 16.2.3 by post to Warrington Borough Council, Warrington Borough Council, New Town House, Buttermarket Street, Warrington WA1 2NH marked for the attention of John Nichol.