

**THE ABERDEEN CITY COUNCIL (BERRYDEN CORRIDOR IMPROVEMENT)
COMPULSORY PURCHASE ORDER 2018
STATEMENT OF REASONS**

1 Introduction

- 1.1 This document is the Statement of Reasons (“Statement of Reasons”) prepared by Aberdeen City Council (“the Council”) for the making of a compulsory purchase order entitled “The Aberdeen City Council (Berryden Corridor Improvement) Compulsory Purchase Order 2018” (“the CPO”).
- 1.2 This Statement of Reasons has been prepared in accordance with the Scottish Government Guidance contained in Scottish Planning Circular 6/2011: Compulsory Purchase Orders.
- 1.3 On 21 December 2017, the Council resolved to make the CPO for the Berryden Corridor Improvement in respect to land required for the construction and improvement of a public road lying to the north of Aberdeen City centre (“the Project”).
- 1.4 The Project can be described in two main sections, these being:
- Road Widening - From the junction of Skene Square with Rosemount Place following the route of the B986 then C156C Berryden Road generally in a north west direction until it meets the junction of the C156C Ashgrove Road/Back Hilton Road; and
 - New Road Construction – From the junction of the C156C Berryden Road/Ashgrove Road/Back Hilton Road generally in a northerly direction running between the residential developments of Picktillum Place and Kittybrewster Square and to the rear of properties lying to the east of the A96 Great Northern Road until it meets with the A96 Kittybrewster Roundabout. Included is an additional link road from the proposed new road, to tie in with the C156C Back Hilton Road at its junction with the U308C Cattofield Terrace.
- 1.5 This Statement of Reasons sets out the background to, the purpose of, and the justification for making the CPO.

2 Land and Project Description

- 2.1 The Project starts at the junction between the B986 Skene Square, U309C Rosemount Place and U300C Maberly Street and follows the route of the B986. The road heads generally in a north west direction and gradually rises to a point near to the junction with Rosemount Terrace from where it falls towards its junction with the A944 Westburn Road/Hutcheon Street. This section of the Project involves widening the B986 at Skene Square and Caroline Place with associated alignment and junction improvements. In this area there is a primary school, a church and a mix of residential and commercial properties.

- 2.2 The Project continues from the A944/B986 junction following the B986 Berryden Road in a generally north west direction following the existing road downhill to its junction with Bob Cooney Court. From this point the Project travels in a predominantly northerly direction and begins to rise to meet with the B986 Belmont Road. Thereafter Berryden Road continues as the C156C for a short distance until it meets with the C156C Ashgrove Road/Back Hilton Road. This section of the Project involves widening the B986/C156C Berryden Road with associated alignment and junction improvements. The area contains a mix of residential and retail properties along with a vehicular access to the NHS Royal Cornhill Hospital.
- 2.3 From the junction of the C156C Berryden Road/Ashgrove Road/Back Hilton Road, a new section of road is to be constructed, travelling generally in a northerly direction and falling gradually downhill until it intersects with a new link road between the new road and the C156C Back Hilton Road at its existing junction with the U308C Cattofield Terrace. The road continues downhill until it intersects with the A96 Powis Terrace and the B986 Clifton Road, where a new junction will be formed. The new road runs between the developments at Picktillum Place and Kittybrewster Square in land which was set aside for the road corridor prior to the construction of these residential properties.
- 2.4 From its junction with the A96 Powis Terrace/B986 Clifton Road, the new road continues to head in a northerly direction rising gradually uphill until it meets the A96 Kittybrewster Roundabout, where the Project ends. The new road will pass to the rear of residential and retail properties (numbers 54 to 104 Great Northern Road). In this area there are further residential properties, a hotel, primary school and retail premises along the A96 Great Northern Road, lying to the west of the new road. To the east of the new road there is a council depot as well as a police custodial centre, the latter will take direct access onto the new section of road.
- 2.5 The plots of land which are subject to the CPO are detailed in the schedule to the CPO and on the map attached to the CPO ("the Map"). The plots of land to be acquired, shown shaded pink on the Map, extend to 1.4 hectares or thereby. The plots of land over which servitudes or other rights in land are to be acquired, shown shaded blue on the Map, extend to 2.5 hectares or thereby and the plots over which temporary possession or other rights in land are to be acquired, shown shaded green on the Map, extend to 0.9 hectares or thereby.
- 2.6 The land to be acquired lies within 4 Community Council boundaries. These Community Councils are:
- George Street;
 - Rosemount and Mile-End;
 - Westburn and Berryden (Community Council not currently operational); and
 - Cattofield (Community Council not currently operational).

- 2.7 From 25 October 2018 the Community Councils of Westburn and Berryden and Cattofield will be amalgamated to form the new Community Council area of Rosehill and Stockethill.

3 Purpose

- 3.1 The Council, as the Roads Authority, has a duty under the Roads (Scotland) Act 1984 to keep under review the local road network in the Aberdeen City area and to manage and maintain the system of routes, including where appropriate, ensuring the provision of a safe and efficient network of roads.
- 3.2 The existing Berryden corridor facilitates journeys between the city centre, the north of Aberdeen and beyond. The corridor represents a pinch point in the city road network. It is identified as a route operating beyond its capacity leading to significant congestion and journey time delays, particularly at peak times. The effect on traffic flow extends beyond the immediate corridor impacting on the A96 Great Northern Road, to the north, through to the B986 Skene Square, to the south. Proposals for an improved route have been considered since at least the early 1990's with the route cited in Aberdeen City District-Wide Local Plan in 1991. Planning Permission was previously granted for the new section of road in 1996 with this forming part of a phased scheme proposed to tie the existing lengths of dual carriageway at the B986 Skene Square and the A96 Great Northern Road.
- 3.3 A report to the Policy and Strategy Committee in September 2007 advised members that the officers of the Council ("Council officers") were due to commence the investigation of transportation improvements along the Berryden corridor. This led to an option appraisal involving public consultation, economic and environmental exercises. The appraisal also included a traffic modelling exercise which formed the main part of the option development. The modelling incorporated committed developments and assessed the impact of predicted future traffic levels upon the corridor and surrounding road network.
- 3.4 A number of improvements along the corridor were considered within the traffic model. These included: traffic management measures to the existing roads, a new road between the C156C Ashgrove Road and the A96 Powis Terrace/B986 Clifton Road, a new road between the A96 Powis Terrace and the A96 Kittybrewster Roundabout and widening of existing road together with new road from the C156C Ashgrove Road to the A96 Kittybrewster Roundabout. Due to the constrained nature of the corridor there was limited scope for alternative options involving significant alterations to the alignment of the existing road and junctions outwith routing through safeguarded land. The appraisal determined that the option which provided two lanes for all traffic in both directions on the realigned route provided the most significant network benefits with the predicted traffic volumes. It identified this infrastructure improvement as the preferred option as it best met the appraisal's objectives. The findings were presented in "The Berryden Corridor Improvements (An Integrated Transport Solution) Option Appraisal"

which was completed in November 2009. The findings of this appraisal have informed the level of infrastructure to be provided by the Project. As design work has progressed, further traffic modelling work has been carried out to ensure that the Project continues to perform effectively when considering current commitments to implement various infrastructure projects and notable developments within Aberdeen.

3.5 The need for the Berryden corridor improvement has been acknowledged for some time, the Project as it currently stands has also been identified as being required to facilitate the delivery of the Union Street Pedestrianisation project (the “USP”). More recently the scope of the USP has evolved to transform the wider transportation network in the city centre as part of the Aberdeen City Centre Masterplan (the “CCMP”).

3.6 The purpose of the Project is to improve the efficiency of the public network by relieving congestion and improving journey time reliability while also improving infrastructure for walking and cycling.

4 Justification for making the Compulsory Purchase Order

4.1 The Project will provide substantial benefits across the north of the city and beyond including:

- Improved journey times and connections;
- Reduced congestion; and
- Improved pedestrian and cycle provision.

4.2 Promotion of the Project is consistent with or complimentary to other transport projects and strategies currently being promoted in Aberdeen City, including; Aberdeen Western Peripheral Route (Transport Scotland), A90/A96 Haudagain Improvement (Transport Scotland), and the Aberdeen City Centre Masterplan (Aberdeen City Council). The completion of the ‘Access from the North - Third Don Crossing’ scheme in 2016 provides a significant new link within the transport network. The Project will further improve connectivity to this new link as well as the surrounding infrastructure.

4.3 An economic analysis has been undertaken and concluded that the Project demonstrates value for money as indicated by the predicted cost to benefit ratio.

4.4 The CPO is required as it is unlikely that all the necessary land will be acquired voluntarily and in order to implement the Project within a reasonable timeframe.

5 Use of land after acquisition

5.1 The CPO land is to be used for the purposes of the Project including improving the existing road through widening and localised realignment, providing new sections of road, junction improvements, drainage, working space, access, accommodation works and mitigation

measures. The completed road will be incorporated in the List of Public Roads within the terms of the Roads (Scotland) Act 1984.

6 Description of and need for any new rights being created

6.1 The CPO provides for the creation of the following new rights which are necessary for the delivery of the Project:

- Servitude rights of access over the internal roads at Bob Cooney Court and Berryden Mills (including rights to park vehicles) for the purposes of constructing and access to and from the Sustainable Drainage System (“SuDS”) pond at this location;
- Servitude rights of drainage to convey road and other drainage from Berryden Road, including the new SuDS pond, through the internal roads at Berryden Mills and Bob Cooney Court and continuing through the adjoining retail park, together with all necessary rights of access for the purposes of constructing, inspecting, repairing, maintaining, renewing, replacing, connecting or altering any drainage apparatus;
- Servitude rights of access over rear gardens at Great Northern Road for the purposes of constructing, inspecting, repairing, maintaining, renewing, replacing or altering a retaining wall and related infrastructure; and
- The temporary access and possession rights encompassed within the CPO are required to enable the construction of the Project. Such land will be reinstated to original condition as far as deemed reasonably practicable at the end of the temporary possession period.

7 Use of Enabling Act

7.1 The CPO is promoted by the Council as the Roads Authority using the powers contained in Sections 103 to 106 inclusive and 110 of the Roads (Scotland) Act 1984 to compulsorily acquire land for the purpose of carrying out construction and improvement of a public road, including the power to acquire a servitude or other right in or over land by the creation of a new right and for the purpose of mitigating any adverse effect which the existence or use of a road constructed or improved by them, or proposed to be constructed or improved by them, has or will have on the surroundings of the road.

7.2 As set out in this Statement of Reasons, the Council considers that the powers under the Roads (Scotland) Act 1984 are the relevant powers to use to secure the necessary rights for development. There are no other more specific or appropriate powers which ought to be used. The Council considers that the making of the CPO complies with the terms of its enabling powers.

8 Public Engagement

8.1 Public consultation exercises were held as part of the 2009 option appraisal process. These took the form of questionnaires, public drop-in sessions held in the local communities, online

displays and a physical display at the Council's Headquarters throughout the consultation period. The consultation was promoted in the local press, on the Council's website and a letter drop was carried out to premises along the Berryden Corridor and Bedford Road. Stakeholders, including emergency services, local community, business representatives and public transport providers were also contacted at this time.

- 8.2 A preferred option for the Project was identified and presented to the Council's Enterprise, Planning and Infrastructure Committee on 26 November 2009 where it was subsequently adopted by the Council. Having established the principle for the Berryden Corridor, the Project has been referred to in a number of planning and transport policy documents (see section 9), which have themselves been the subject of consultation through the intervening years.
- 8.3 In February 2014, the Council approved funding for the progression of the Project. Following a design review of the Project, the Council wrote to the owners/occupiers of all affected properties in January and February 2016. The correspondence advised of the Project, the role of Brodies LLP ("Brodies"), who were appointed by the Council as principal legal advisors to assist in preparing the CPO, in relation to title investigations and the likelihood of future contact in this respect, the Council's intention to buy land on a voluntary basis, the possibility that compulsory powers would be used and contact details for further enquires if more information was required. Along with the letter, a copy of the Scottish Government's document "Compulsory purchase and compensation; A guide for owners, tenants and occupiers in Scotland (2011)" was provided.
- 8.4 Subsequently, owners and occupiers of land which were likely to be affected by the CPO were contacted by a further letter drop during June and July 2016. The letter updated recipients on proposed design changes to the Project since 2009 and offered the opportunity to meet with Council Officers and give feedback on the current proposals. The letter also advised recipients of the likely requirement for compulsory purchase but invited those interested in a voluntary sale to contact the Council to discuss matters. As several plots contained multiple owners it was the Council's preferred approach to use compulsory purchase unless all the owners collectively reached agreement to sell voluntarily.
- 8.5 Both letter drops led to a number of interested parties contacting Council officers in person or via phone, email or letter. Council officers met with Rosemount and Mile-End Community Council, Skene Square Primary School Parent Council and George Street Community Council in June 2016.
- 8.6 In 2016 design work instigated a localised option appraisal for the B986 Caroline Place at its junction with the A944 Hutcheon Street, A944 Westburn Road and B986 Berryden Road.

Owners and occupiers affected by the proposals were contacted to inform them of the options being considered.

- 8.7 Throughout March, April and May 2018, Brodies wrote to owners/occupiers in order to identify any changes to relevant title interest and advised that the Council was in the process of acquiring the land and rights required for the Project and that it intended to proceed with a compulsory purchase order in the coming months for land that could not be secured voluntarily.

9 Planning Position

Policy Context

- 9.1 The Local Outcome Improvement Plan 2016 – 2026 (Community Planning Aberdeen) (the “LOIP”) provides a vision and focus for the delivery of public service reform based on agreed local priorities. Within the LOIP the primary drivers of “Investment in Infrastructure” and “Internationalisation” are supported by the Project.
- 9.2 The Aberdeen Local Development Plan (the “LDP”) adopted in 2017, supports the Aberdeen City and Shire Strategic Development Plan (2014) and takes cognisance of the Aberdeen Local Transport Strategy (2016-2021), Nestrans Regional Transport Strategy (refreshed 2013) and National Transport Strategy (refreshed 2016). The LDP allocates land and promotes planning policies to enable the growth of Aberdeen over the plan period and to “ensure that all communities have access to a comprehensive and effective transport network”. Good transport connections are seen as “essential to the economic prosperity of Aberdeen and the quality of life of people living and working in the city”.
- 9.3 The CPO land lies within areas zoned for various land uses identified in the LDP, including: Residential Areas (Policy H1), District Centres (Policy NC4), Commercial Centres (Policy NC4), Mixed Use Area (Policy H2) and Opportunity Sites; OP73 (Mixed Use Area (Policy H2)) and OP77 (New Community Facilities (Policy CF2)). Opportunity Site OP73 covers around 0.2 hectares. This land has been partially reserved for the Berryden Corridor Improvement. Land, which is required for the Project, has been identified as Land for Transport (Policy T1) and has been safeguarded for the Berryden Corridor Improvement. This land extends from 100 metres or thereby south of the U308C Chestnut Row (extended south kerb line) northwards to the new junction with A96 Kittybrewster Roundabout (including junctions with minor roads) and covers the extents of the new road construction.
- 9.4 The Aberdeen City Council Local Transport Strategy (the “LTS”) for the period 2016 to 2021 sets out the policies and interventions adopted by the Council to guide planning and improvement of the local transport network over the next five years. The LTS vision is to develop “a sustainable transport system that is fit for the 21st Century, accessible to all,

supports a vibrant economy, facilitates healthy living and minimises the impact on our environment”. The LTS sets an objective to support improvements to the road network and states that the Council will support the principle that “priority investment should be determined in order to reflect all day demand relative to capacity”. The Berryden Corridor is specifically identified as being “a strategic route used both by traffic accessing or travelling through the city centre and as a direct access route to a number of large retail developments along the corridor itself and has been identified as operating beyond capacity, leading to significant congestion and journey time delays”, thus highlighting the need for the Project. The LTS supports the aims and visions of the Nestrans Regional Transport Strategy, in which part of the Berryden Corridor Improvement is highlighted as a ‘strategic road improvement’ as part of the ‘Internal Connections – Aberdeen Area’ proposals.

- 9.5 The Aberdeen Strategic Infrastructure Plan (the “SIP”) which was published in 2013, focuses “on the development of the enabling infrastructure needed to realise the city’s aspirations” The SIP identified the Central Aberdeen Transport Infrastructure (the “CATI”) project and states that “...road improvements are required to provide sufficient capacity within the network to allow interchange between north/south and east/west traffic”. The Berryden Corridor forms part of the CATI.
- 9.6 Aberdeen City Centre Masterplan and Delivery Programme which was published in June 2015 outlines a 20-year development strategy for Aberdeen City Centre. A range of projects are identified to facilitate and support future economic growth with the intention that such growth will secure more benefits and opportunities for the communities of Aberdeen City and Shire. The Berryden Corridor Improvement is a committed project that supports the delivery of the CCMP by accommodating traffic routeing changes, resulting from reduced city centre permeability.
- 9.7 The Project is therefore supported by and consistent with plans and policies at the local and regional level.

Consents

- 9.8 It is anticipated that a planning application for the Project will be submitted in early 2019.
- 9.9 A request for a screening opinion in relation to the Project was received by the planning authority on 3 October 2016. The planning authority’s opinion was that the proposal would not require an environmental impact assessment (EIA) in terms of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011.
- 9.10 Conservation area and listed building consent will also be required for the Project. The land to be acquired includes land which forms part of the Rosemount Conservation Area including

a wall along the frontage of the Category C listed former Rosemount Parish Church (currently known as The Father's House) which is to be realigned. The Project involves the demolition of buildings within the Rosemount conservation area. A Category B listed March stone (ABD 55), marking the boundary of the Freedom Lands of Aberdeen at Back Hilton Road will require to be re-located.

9.11 Given the transport and planning policy support for the Project and the substantial benefits which will be delivered, it is anticipated that all necessary consents will be secured within a reasonable period of time.

9.12 In addition the following technical orders and warrants will be required for the Project:

- Redetermination of footway to cycle track/footway; and
- Building Warrants.

9.13 These technical orders and warrants will be applied for at a later stage of the Project but there is no reason to expect that these will not be granted.

10 Funding

10.1 Given the recognised local and regional benefits of the Project, particularly with respect to enabling implementation of elements of the Local Development Plan and City Centre Masterplan, the Council is committed to the progression of the Project. Budget for land and property purchase costs is included within the existing Non-Housing Capital Plan. Funding has been identified in the Council's Non-Housing Capital Plan to progress the Project.

11 Barriers to Completing the Project

11.1 The statutory consents and orders which are required to implement the Project are identified in section 9 of this Statement of Reasons, together with an assessment of the prospects of obtaining these.

11.2 Land owned by Scottish Ministers is required for the Project and is discussed in section 14.3.

11.3 There are no known additional barriers which require to be overcome in order to deliver the Project.

12 Human rights

12.1 The Project has been designed to minimise interference with the peaceful enjoyment of possessions by affected owners and occupiers under Article 1 of the First Protocol of the European Convention on Human Rights (ECHR) under which no one is to be deprived of their possessions except in the public interest. The land to be acquired for the Project which is the subject of the CPO has been kept to a minimum. Any interference with the right has to be

provided for by law and strike a fair balance between the interests of the community and the protection of the rights of the individual. The Council believe that the greater public good is in promoting the Project for the benefit of the people of the area and that this outweighs the harm caused by the use of compulsory purchase powers to acquire third party land for the Project.

- 12.2 The Council has also considered affected parties' rights in terms of Article 8 of the ECHR which protects the right to respect for a person's private and family life, his home and his correspondence. Any interference with Article 8 requires to be in accordance with law and necessary in a democratic society in the interests of, amongst other things, the economic well-being of the country. Any interference with this right is considered to be lawful, proportionate and in response to a pressing social need.
- 12.3 The Council therefore considers that the making of the CPO and exercise of the powers authorised by the CPO is lawful, proportionate, and would not violate Article 8 or Article 1 to the first protocol of the ECHR.
- 12.4 An Equality and Human Rights Impact Assessment has been carried out on the Local Transport Strategy, of which the Project forms part. It was found that the Local Transport Strategy did not have a negative impact on any of the equality target groups.

13 Unknown Owners

- 13.1 The owners of part of plot 147 are unknown despite a thorough title investigation. The area in question is located at the entrance to the Berryden retail park, lying between the registered title and the adopted road. Site notices will be placed at appropriate locations as part of the advertisement/notification process for the CPO.

14 Negotiations with landowners

- 14.1 The Council owns or controls approximately 80% of the land required to deliver the Project.
- 14.2 As detailed in section 8, the Council has offered to negotiate with all affected landowners. Consequently, the Council's Estates team has acquired several properties and continues to negotiate with a number of landowners at this time. Given the number of plots and affected parties it is not considered practicable that all interests will be acquired on a voluntary basis.
- 14.3 Land owned by the Scottish Ministers (the Crown) at NHS Grampian Royal Cornhill Hospital is required for the Project. Negotiations have been ongoing for some time with representatives from NHS Grampian who are agreeable in principle to the proposed acquisition. It is reasonably anticipated that the acquisition of the Scottish Ministers' land will proceed

following agreement with the NHS, either as a voluntary purchase or a compulsory purchase with consent.

15 Special Considerations

15.1 The CPO includes the following special category and protected land types:

Listed Buildings -

- The Father's House (Category C); and
- March Stone ABD 55 (Category B).

Land within Rosemount Conservation Area -

- Land between 1 & 2 Caroline Place;
- Land associated with 3 Caroline Place; and
- Land associated with Cornhill Hospital / Westburn Gardens.

15.2 Land in which various Statutory Undertakers have an interest is detailed in the schedule to the CPO.

15.3 Plots 95 (74 square metres or thereby) and 96 (172 square metres or thereby) may be regarded as open space for the purposes of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947. Plots 95 and 96 are relatively slender strips of uneven grassed land that closely follow the east side of the existing boundary wall between the Belmont Gardens housing estate and land that has been reserved for the Project. Individually the area of plots 95 and 96 do not exceed the statutory threshold of 209 square metres but taken together (although not contiguous) they comprise 246 square metres or thereby in total.

15.4 The Council does not propose to give other land in exchange for plots 95 and 96 as both plots are required for the purpose of widening an existing public road, and the giving of other land is unnecessary in the interest of the public for the following reasons:

- The open space has been safeguarded in policy terms for some time for the purposes of the Project;
- As part of the Project, a footpath will be constructed in this vicinity allowing continued access to pedestrians;
- The size of plots 95 and 96 individually is such that exchange land of a similar size would not afford a meaningful opportunity for recreation; and
- It is proposed that the land will generally be used for earthworks associated with the road widening and will be soft landscaped on completion.

16 Conclusions

16.1 In conclusion:

- There is a need for the Project and overall it will bring significant public benefit;

- The Project and its objectives are in accordance with the relevant duties, policies and objectives of the Council;
- The Project and its objectives are supported by or consistent with national, regional and local transport policy as well as the Development Plan;
- The Project is consistent with the key aims, objectives and strategies of the relevant planning policy framework;
- The land and rights in the land required for delivery of the Project cannot be obtained by voluntary negotiation within a reasonable timescale; and
- Accordingly, there is a compelling case in the public interest for the exercise of compulsory purchase powers in this case.

17 List of Documents

17.1 The following documents and map are publicly available for inspection during normal opening hours at:

- Central Library, Rosemount Viaduct, Aberdeen;
 - Cornhill Library, Cornhill Shopping Arcade, Aberdeen; and
 - Woodside Library, 356 Clifton Road, Aberdeen.
- The Aberdeen City Council (Berryden Corridor Improvement) Compulsory Purchase Order 2018
 - The Aberdeen City Council (Berryden Corridor Improvement) Compulsory Purchase Order 2018 – Map
 - The Aberdeen City Council (Berryden Corridor Improvement) Compulsory Purchase Order 2018 - Statement of Reasons
 - “Compulsory purchase and Compensation: A Guide for owners, tenants and occupiers in Scotland” (2011), Available at: <https://www.gov.scot/Publications/2011/10/24114350/0>

17.2 The other documents that have been referenced in this Statement of Reasons can be viewed at Marischal College, Broad Street, Aberdeen.