

THE LANCASHIRE COUNTY COUNCIL (CHURCH GATEWAY – JUNCTION IMPROVEMENT AT MARKET STREET AND BLACKBURN ROAD, CHURCH, ACCRINGTON) COMPULSORY PURCHASE ORDER 2019

STATEMENT OF REASONS FOR MAKING THE COMPULSORY PURCHASE ORDER

1. INTRODUCTION

1.1. This is the Statement of Reasons of Lancashire County Council ('the Acquiring Authority') for making the Lancashire County Council (Church Gateway – Junction Improvement at Market Street and Blackburn Road, Church, Accrington) Compulsory Purchase Order 2019 ('the Order').

1.2. In preparing this statement, the Acquiring Authority has endeavored to provide sufficient information so that its reasons for making the Order can be properly understood.

1.3. This statement:

- 1.3.1 Identifies the powers under which the Order is made (Section 2);
- 1.3.2 Sets out the background to the Order (Section 3);
- 1.3.3 Provides a general description of the Scheme and the Order Land (Section 4);
- 1.3.4 Describes the current planning position (Section 5);
- 1.3.5 Sets out the Acquiring Authority's reasons and justification for making the Order (Section 6);
- 1.3.6 Describes current negotiations with landowners (section 7);
- 1.3.7 Deals with Human Rights issues (Section 8);
- 1.3.8 Sets out how the road is to be financed (Section 9);
- 1.3.9 Sets out the arrangements for inspection of documents (Section 10);
- 1.3.10 Sets out the contact details for further information (Section 11)

2. POWERS UNDER WHICH THE ORDER IS MADE

2.1 The Order is made under sections 239 and 250 of the Highways Act 1980 (the "1980 Act"). The powers in the 1980 Act enables the Acquiring Authority to acquire land compulsorily where the land is required for the improvement of the highway in this case it will provide highway widening for the junction at Blackburn Road A671 and Market Street B6231, Accrington. This will involve the widening of the highway for widened carriageway and footway so that an acceptable minimum width of 2 metres is provided for the footway, in line with the Design Manual for Roads and Bridges (DMRB), Volume 6 Section 3 part 5 TA90/05. Paragraph 7.4.

2.2 The temporary rights of access required over the land shown coloured blue on the map referred to in the Order will assist with the right of access with or without plant or machinery and the right for working space for the improvement of the footway which currently remains unconstructed. Further details about the type of access and machinery proposed is included within the schedule to the Order.

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3. BACKGROUND TO THE ORDER

The Acquiring Authority has carried out improvements to the highway junction known as 'Church Gateway'. The junction works were one of the key elements of the Pennine Reach major public transport scheme and involved the complete remodelling of the junction between the A679, Market Street and Blackburn Road in Church, Hyndburn from a complicated layout of two staggered signalised junctions to two interconnected roundabouts. The majority of the junction has been constructed.

3.1. The improvements at the junction were required to:

- improve the junction capacity;
- facilitate and improve traffic flow;
- reduce delays to buses to maintain reliable and punctual services; and
- improve pedestrian and cycle facilities.

3.2. Most of the Church Gateway Scheme has been delivered within the existing highway boundary or on land acquired from Hyndburn Borough Council through agreement. However, the Order Land is also required for the purposes of highway widening and will include a section of carriageway and footway. The carriageway has been constructed and is in use. The land included in plot 1, part of plot 2, plot 3 and 4 shown on the Order Map are required for the purposes of a footway. The majority of the footway has been constructed save for a small section at the corner of Blackburn Road and Market Street, Church, Accrington shown as plots 3 and 4, an area of approximately 1.98 square metres over which there is no footway. Pedestrians are either forced to dismount the footway and walk into the carriageway and remount the footway again or take alternative routes around the junction. Warning signs are in place to divert pedestrians/ cyclists but Lancashire County Council's Highway Design Team have identified that this is a serious safety concern as pedestrians are forced into the carriageway which is unsafe and is not an acceptable long term provision. It is both a design standard (substandard footway width) and essential safety requirement that a fully accessible footway is provided at this location.

3.3. When the junction improvements were implemented, it was thought that all the land required for the improvements was either already part of the adopted highway or subject to a provisionally agreed dedication agreement. However, four small parcels of required land are in fact in separate private ownership.

3.4. The land proposed to be compulsorily acquired is set out in greater detail in section 4 and is shown on the Order Map. The proposed site covers an area of approximately 85.74 square metres (net area of land to be acquired

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excluding plots numbered 5 and 6 on the Order Map which are temporary rights of access only) and is located on land bounded by Blackburn Road and Market Street Church, Accrington.

- 3.5.** The Acquiring Authority has approached all the parties who have been identified as having an interest in the parcels of land required in an effort to acquire the interests by agreement and is committed to continuing negotiations. However to date, it has not proved possible to reach an acceptable agreement with all the interested parties and it is unlikely that the Acquiring Authority will be successful. Although the freehold owner and the head leasehold owner of the Order Land are in agreement to dedicating the Land an agreement cannot be reached with the subleasehold owners for plots numbered 3 and 4 on the Order Map. Further there are two subleasehold interests which are unknown and cannot be traced for plots numbered 1 and 2 on the Order Map. In respect of plot number 1 on the Order Map, Hyndburn Borough Council have provided the Acquiring Authority with an unregistered deed of assignment.
- 3.6. Discussions will continue with the owners of interests who are willing to sell or dedicate the land as highway by agreement. Those parties with whom the authority has been unable to reach agreement have been advised that the Acquiring Authority remains willing to negotiate an agreement should their position change.
- 3.7. To ensure full delivery of the Church Gateway junction, the Acquiring Authority is therefore progressing a compulsory purchase order and all other enabling legislation to acquire the requisite land and rights.
- 3.8. In acquiring the land, no more land will be taken than is needed to accommodate the junction improvements and the proposed land take has been kept to a minimum. The Acquiring Authority is satisfied that there are no planning or financial impediments to the implementation of the Scheme and that the Scheme is therefore likely to proceed if the Order is made. It is considered that the case to be made for full delivery of the Scheme is robust. The Scheme is fully funded and able to demonstrate deliverability.
- 3.9. The Acquiring Authority recognises that a compulsory purchase order can only be made if there is a compelling case in the public interest to sufficiently justify interfering with the human rights of those with an interest in the land affected. It is considered that a clear and compelling case in the public interest exists in this case, as described in the following sections of this Statement of Reasons set out below.

4. GENERAL DESCRIPTION THE SCHEME AND THE ORDER LAND

- 4.1. The Church Gateway junction scheme was designed to improve the junction performance for pedestrians, cyclists, public transport and general traffic. It

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involved major junction improvements to convert two staggered signalled junctions to two connected, compact roundabouts. A design plan for the scheme is included in Appendix 'A'. New signal controlled crossing facilities were provided for pedestrians and cyclists and shared footways and cycle ways were introduced in the vicinity of the junction. Some local road widening was required to accommodate the new junction arrangement.

- 4.2. The Order Land comprises of a total area of approximately 101.76 square metres (inclusive of land to be acquired of 85.74 square metres and land to be used for temporary access of 16.02 square metres) and is located on land bounded by Blackburn Road and Market Street, Church, Accrington and the sites of the former properties, 3 and 5, Market Street, Church and land on the south-east of Blackburn Road, Church, Accrington. The extent of the Order Land is illustrated on the Order Map appended to this Statement in Appendix 'B'.
- 4.3. The Order Land comprises part of the current carriageway, part of the current footway and part of an area of land unused site which at present is largely landscaped with grass.
- 4.4. There are no special conditions relating to the land such as listed buildings or ancient monuments and there are no residential properties within the Order Land.
- 4.5. The Order Map identifies the freehold and leasehold interests to be acquired (coloured pink) and the temporary rights sought (coloured blue). The individual plot boundaries and numbers correspond with the Schedule to this Order (Appendix 'C'). In addition, the Schedule also lists other parties who may have a qualifying interest in the Order Land where known after diligent enquiry.
- 4.6. In addition to the acquisition of land required for the completion of the Church Gateway junction, the Order authorises the Acquiring Authority to acquire temporary rights of access and working space over the plots coloured blue plots 4 and 5 on the Order Map during the construction period.

5. CURRENT PLANNING POSITION

- 5.1. The local planning authority, Hyndburn Borough Council has confirmed that under the General Permitted Development Order 1995, Part 13 sections A and B, the Church Gateway junction works did not require planning permission and is classed as permitted development.

6. REASONS AND JUSTIFICATION FOR MAKING THE ORDER

- 6.1. The Church Gateway junction improvements are a key component of the Pennine Reach major public transport scheme bid to the Department for

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Transport, which was awarded Full Approval by the Government in September 2013. The total cost of the Pennine Reach scheme is £39.9 million with £31.9 million provided by the Department for Transport.

- 6.2. The Pennine Reach scheme is a high quality bus priority service that aims to cut congestion, improve access to jobs and services, boost the local economy, and improve air quality. It is designed to improve the public transport network between Accrington and Blackburn via Clayton-le-Moors, Great Harwood, Rishton and Oswaldtwistle; and between Accrington, Blackburn and Darwen.
- 6.3. The delivery of the Pennine Reach Scheme in full will help achieve social and economic change and there is therefore a compelling case in the public interest to complete the Church Gateway works.
- 6.4. Furthermore, the Acquiring Authority considers that there would be public benefit arising from the completion of the junction works. That benefit can only be realised if the Order is granted: Part of the Order Land is required to complete the construction of the footway on the corner of Blackburn Road and Market Street. At present, over a small section of less than 1.98 square metres, there is no footway. Part of the Order Land is to achieve clear dedication of highway on the widened carriageway and footway. The widened carriageway enables the high quality bus service to operate safely at this junction.
- 6.5. In acquiring the land, no more land will be taken than is needed. The final design for the junction has been developed through several iterations and modifications and, as a result, the proposed land take presents the optimal design and road layout for safe operation, whilst minimising the land take.
- 6.6. The Design Manual for Roads and Bridges (DMRB), Volume 6 Section 3 part 5 TA90/05 paragraph 7.4 states a preferred width for a footway of 2.6 m and an acceptable minimum width of 2.0 metres. Volume 7, Section 2, Part 5 HD39/01 of the DMRB states the same and the Department for Transport Inclusive Mobility document published in December 2005 recommends 2.0 metres as a minimum. In this case, the proposals are for the minimum acceptable width of a 2.0 metre wide footway, which is designed to minimise land take but will meet recommended standards and will allow for 2 wheelchairs to comfortably pass without having to encroach into the carriageway.
- 6.7. For the reasons set out above, the Acquiring Authority considers that there is a compelling case in the public interest to proceed with the Order to secure the completion of the Church Gateway scheme.

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7. NEGOTIATIONS WITH LANDOWNERS

- 7.1. The Acquiring Authority's Estates Service has approached all known landowners with an interest in the parcels of land required and negotiations will continue with the owners of the relevant interests to try and obtain the property/rights by agreement. This approach of making the Order and, in parallel, conducting negotiations to acquire land by agreement is in accordance with the publication 'Guidance on Compulsory Purchase Process and the Crichel Down Rules' published by the Department for Transport in October 2015 and last updated in February 2018.
- 7.2. To date, it has not proved possible to reach an acceptable agreement with all the interested parties and there is no guarantee that they will be prepared to sell or dedicate the land as highway by agreement.
- 7.3. There are also two interests, where the subleasehold owner is unknown and it will not be possible to acquire the interest except by way of compulsory purchase.
- 7.4. The Order Map appended to this statement in Appendix 'B' identifies the freehold and leasehold interests to be acquired (coloured pink) and the temporary rights sought (coloured blue). The paragraphs below review the contact and negotiations for each plot included in the Order and the Schedule and shown on the Order Map:

7.5. Plots 1 and 2

The Acquiring Authority has entered into negotiations with the freeholder owner and the head leaseholder for both plots 1 and 2. Both have expressed an interest in making their plots available through a dedication agreement.

However, there is an unknown sub-leasehold owner for both plots 1 and 2. The Acquiring Authority has made enquires with the Land Registry and all other known owners of the land and it has not been possible to ascertain who the two sub-leaseholders are. In respect of plot number 1 on the Order Map, Hyndburn Borough Council have provided the Acquiring Authority with a deed of assignment. The Acquiring Authority has also put notices on the land. In order to ensure that the sub-leaseholders do not seek to challenge the dedication as highway in the future and for clarity of adoption, the Order will allow the Acquiring Authority to acquire plots 1 and 2.

7.6. Plots 3 and 4

The freehold owner and head leasehold interest for these two plots are the same as for plot 1 and 2. They have both expressed an interest in making their plots available to the Acquiring Authority through a dedication agreement.

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However, the Acquiring Authority has been unable to reach agreement with the sub-leaseholders to dedicate plots 3 and 4 as highway. Negotiations have taken place with the sub-leaseholders over a long period and a formal offer was made in July 2015. This offer was rejected and there has been an unwillingness, until recently, on the part of the sub-leaseholders to negotiate with the Acquiring Authority. Parties have been advised that the Acquiring Authority remains willing to negotiate should their position change. The use of compulsory purchase powers will enable the acquisition of the required interests if agreement cannot be reached.

7.7. Plot 5 and 6

The Order authorises the Acquiring Authority to acquire temporary rights of access and working space over plots 5 and 6.

For plots 5 and 6, the freehold owner and head leasehold interest are as for plots 1, 2, 3 and 4 and are prepared to negotiate to allow these temporary rights to the Acquiring Authority during the construction period.

The sub-leaseholders are as plots 3 and 4 and until recently have been unwilling to negotiate with the Acquiring Authority. The sub-leaseholders have been made aware that the Acquiring Authority remains open to negotiation to acquire these rights through agreement and a revised offer is to be made in the near future. The Order will allow the acquisition of the required temporary rights if agreement cannot be reached.

- 7.8. Contact has been made with statutory undertakers to establish the presence of plant and equipment with the Order area and they are being invited to discuss the impact of the proposed works and the Order on their assets and statutory rights.

8. HUMAN RIGHTS ISSUES

8.1. 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.

8.2. The following articles of the Convention are relevant to the determination as to whether the Order should be confirmed:

- Article 6 entitles those affected by the powers sought in the Order to a fair and public hearing by an independent and impartial tribunal. The requirements can be secured by the availability of judicial review if the decision making is not independent within the meaning of Article 6

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- 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
- 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. As with Article 8, 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.

8.3. 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:-

- the statutory procedures for obtaining the Order are followed and there is a compelling case in the public interest for the Order; and
- any intervention with the Convention right is proportionate to the legitimate aim served.

8.4. The Acquiring Authority has considered the potential infringement of convention rights in consequence of the Order. The land to be acquired for the Scheme has been kept to a minimum and the Scheme is 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.

8.5. The Acquiring Authority considers that there would be public benefit arising from the construction of the Scheme. That benefit can only be realised if the Order is granted. 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 land owners. .

8.6. These public benefits therefore outweigh the effects of the Order upon persons with property rights in the Land and would not be a disproportionate interference with their Article 8 and Article 1 of the First Protocol rights. In addition, those affected by the acquisition of land or rights under the Order will be entitled to compensation and the Acquiring Authority has the resources to pay such compensation.

8.7. For the above reasons, any infringement of convention rights of those whose interests are affected caused by the inclusion of powers of compulsory acquisition is in the public interest and according to national and European

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law, and it would be appropriate and proportionate to make the compulsory purchase order.

In processing the Order, the Acquiring Authority has complied with all relevant legislation and regulations that provide an opportunity for those affected to object to the Order and have their representations considered at a public inquiry. The land to be acquired which is the subject of the Order has been kept to the minimum necessary to construct the carriageway and footway. 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 land owners.

9. FINANCE OF THE SCHEME

9.1. The cost of acquiring the land (including fees) would be met from within the overall approved budget (£39.9 million) for delivering the Pennine Reach scheme, of which there is currently £309,000 remaining budget.

10. INSPECTION OF DOCUMENTS

The Order, accompanying Order Map and the Statement of Reasons are available for public inspection during normal office hours at:

- Hyndburn Borough Council, Scaitcliffe House, Ormerod Street, Accrington, Lancashire BB5 0PF
- Lancashire County Council, County Hall, Fishergate, Preston , PR1 8XB and ask for Sarah Delaney

11. CONTACT DETAILS

Interested Parties who wish to discuss matters with the Council should contact Sarah Delaney by one of the following means:

- by telephone on 01772 534648
- by e mail to sarah.delaney@lancashire.gov.uk
- by post to Lancashire County Council, County Hall, Fishergate, Preston PR1 8XB for the attention of Sarah Delaney