

West Yorkshire Plus Transport Fund A629 Phase 2 – Halifax Town Centre



Supplemental Compulsory Order 2021 Statement of Reasons

October 2021

Borough Council of Calderdale

CONTENTS

1. INTRODUCTION
2. DESCRIPTION OF THE ORDER LAND AND PRESENT USE
3. THE SUPPLEMENTAL CPO MAP
4. ENABLING POWERS FOR THE SUPPLEMENTAL CPO
5. NEED FOR ACQUISITION
6. SCHEME INFORMATION
7. REVISED SCHEME
8. SIDE ROADS ORDER
9. APPRAISAL OF OPTIONS
10. HUMAN RIGHTS ACT
11. SPECIAL CONSIDERATIONS
12. OTHER IMPEDIMENTS
13. ENQUIRIES
14. SUPPORTING DOCUMENTS

INTRODUCTION

1.1 On 9th December 2020, the Borough Council of Calderdale (“**the Council**”) made the following Orders following the Cabinet’s agreement to the use of compulsory purchase powers on 2nd December 2020 (following earlier resolutions relating to the scheme dated 4th July 2016, 2nd October 2017 and 19th March 2018):

- The Borough Council of Calderdale (A629, Halifax Town Centre, Halifax) (Highway Improvements) (West Yorkshire Plus Transport Fund, Phase 2) Compulsory Order 2020 (“**the Original CPO**”); and
- The Borough Council of Calderdale (A629 Phase 2, Halifax Town Centre, Halifax) (Highway Improvements) (West Yorkshire Plus Transport Fund, Phase 2) (Side Roads) Order 2020 (“**the Side Roads Order**”)

(together referred to in this Statement of Reasons as “**the Original Orders**”).

1.2 The Original CPO was made under sections 239, 240, 250 and 260 of the Highways Act 1980. The Side Roads Order was made under the provisions of sections 14 (powers of highway authorities as respects roads that cross or join classified roads) and 125 (further powers to stop private means of access to premises) of the Highways Act 1980 and in accordance with Schedule 1 of that Act.

1.3 The Original Orders were made as the Council is satisfied that there is a compelling case in the public interest and that the proposed acquisitions will facilitate the carrying out of various improvements within the A629 highway corridor and wider Halifax town centre. The improvements will comprise the reconfiguration of all major traffic junctions to the east and west of the town, realignment of highway boundaries to facilitate improved pedestrian and cyclist connectivity and the creation of new areas of public realm as part of a comprehensive scheme to provide multi-modal transport corridor improvements. These works combined will improve the economic, social and environmental well-being of the Borough of Calderdale.

1.4 The Original Orders were advertised in accordance with the statutory requirements, and statutory objections were received in respect of two properties from the owners and a business tenant of one of the properties. A Statement of Case was subsequently prepared and served on all parties and the National Transport Casework Team – this sets out the Council’s response to the grounds of objection raised by the objectors and explains the attempts made by the Council to resolve these to date.

1.5 For the reasons explained in section 5 below, on 4 October 2021 the Council’s Cabinet resolved to make the following supplemental compulsory purchase order:

- The Borough Council of Calderdale (A629, Halifax Town Centre, Halifax) (Highway Improvements) (West Yorkshire Plus Transport Fund, Phase 2) Supplemental Compulsory Order 2021 (“**the Supplemental CPO**”).

1.6 As detailed below, the Supplemental CPO is required as a result of a design change to part of the scheme, and in another location to acquire an area of land which it had previously been thought fell within the boundary of the public adopted highway.

- 1.7 The Council prepared a Statement of Reasons (“**the Original Statement of Reasons**”) which accompanied the Original Orders and was served on all qualifying persons with the statutory notices of the making of the Original Orders. As explained below, the Original Statement of Reasons should be cross-referred to and read closely in conjunction with this Statement of Reasons which relates solely to the Supplemental CPO.
- 1.8 As with the Original Statement of Reasons, this Statement of Reasons is a non-statutory statement provided in compliance with the guidance set out in the following:
- Ministry of Housing Communities and Local Government Guidance on Compulsory purchase process and The Critchel Down Rules for the disposal of surplus land acquired by, or under threat of, compulsion (‘the MHCLG Guidance’);
 - The Department for Transport’s Note on the Preparation, Drafting and Submission of Compulsory Purchase Orders for Highway Schemes and Car Parks for which the Secretary of State is the Confirming Authority, Circular No. 2/97 (‘the DfT Guidance’); and
- 1.9 If a public inquiry into the Orders is required, the Council will request that the Original Orders and the Supplemental CPO are considered concurrently.
- 1.10 If confirmed by the Secretary of State, the Original Orders and the Supplemental CPO will enable the Council to acquire compulsorily the land and rights over the land needed to facilitate the development described below and to implement the changes to side roads set out in the Site Roads Order.

2 DESCRIPTION OF THE ORDER LAND AND PRESENT USE

- 2.1 The land proposed to be compulsorily acquired pursuant to the Supplemental CPO is shown on the map which accompanies the Supplemental CPO (“**the Supplemental CPO Map**”) and is located within Halifax town centre. All of the land is located adjacent to the public adopted highway.
- 2.2. Full details of the ownership of each interest in the Compulsory Purchase Order land are contained in the Schedule to the Supplemental CPO, but in summary the land included comprises the following:
- Plot 1/1, 1/1a and 1/1b comprise part of an area of open land which is used for public car parking.
 - Plots 1/2 and 1/2a comprise vacant land which was formerly occupied by part of Deal Street Mill which has been partially demolished since the Original Orders were made.
 - Plots 2/1, 2/1a, 2/2 and 2/2a comprise an area of flag-paving located east of Broad Street Plaza and immediately adjacent to the western footway of Northgate. The whole area in front of the building comprises the same paving material but only a strip parallel to the kerbline, nominally 2m wide, has previously been adopted as highway. This is delineated by a row of small brass studs fixed into the paving. The scheme provides for the carrying out of works on part of the land located outside of the adopted highway boundary, so the Council has included this land in the Supplemental CPO.
- 2.3 The land is in different ownerships as noted in the Schedule to the Supplemental CPO.

- 2.4 The Council is seeking the power to acquire all interests in the Supplemental CPO land unless expressly stated, as part of the land required to facilitate the comprehensive redevelopment of the land (including the Supplemental CPO land) to deliver integrated transport corridor improvements.

3 THE SUPPLEMENTAL CPO MAP

- 3.1 The Supplemental CPO Map comprises two plans which identify the land subject to compulsory purchase powers, shown shaded in pink. The pink land represents land where all interests in that land are being acquired (the Council is not intending to create new rights over any of the land). Individual plot boundaries and numbers on the Supplemental CPO Map correspond with the Schedule to the Supplemental CPO. In addition, the Schedule lists other parties who may have a qualifying interest in the Supplemental CPO land where known after diligent enquiry.
- 3.2 The Schedule has been based on information gathered through site inspections and enquiries and inspection of Land Registry documents. Whilst it represents an extensive schedule of known interests it is acknowledged that currently unknown interests may emerge in the course of proceeding with the Supplemental CPO.
- 3.3 The Supplemental CPO and accompanying Map can be viewed on the Council's website at <http://www.calderdalenextchapter.co.uk/projects/a629-halifax-town-centre>. A hard copy of the CPO and accompanying Map can be requested from Calderdale Customer First on 01422 288001 at Calderdale Borough Council.

4 ENABLING POWERS FOR THE SUPPLEMENTAL CPO

- 4.1 The Supplemental CPO had been made by the Council pursuant to its powers under sections 239 and 240 of the Highways Act 1980 ("**the 1980 Act**").
- 4.2 Section 239(1) of the 1980 Act enables the compulsory acquisition of land where land is required for the construction of a trunk road, and any highway authority may acquire land required for the construction of a highway which is to be a highway maintainable at the public expense, other than a trunk road.
- 4.3 Under Section 239(3) of the 1980 Act a highway authority may acquire land required for the improvement of a highway, being an improvement which they are authorised by this Act to carry out in relation to the highway.
- 4.4 Under Section 240 of the 1980 Act a highway authority may acquire land which is required for use by them in connection with the construction or improvement of a highway.
- 4.5 The Council is satisfied that for the reasons set out below, the purpose of the Supplemental CPO falls within the powers set out above and that the Supplemental CPO may lawfully be made.
- 4.6 The Council is exercising its compulsory purchase powers because it has not been possible to acquire by agreement all land and interests that are required and it is not certain it will be able to acquire the remaining land by agreement.

- 4.7 The MHCLG Guidance and the DfT Guidance provide guidance to acquiring authorities on the use of compulsory purchase powers and sets out the overarching consideration that there must be a compelling case in the public interest for making a compulsory purchase order. The Council has taken full account of this overarching consideration in making this Order. Section 12 of the Original Statement of Reasons set out why the Council considers that there is a compelling case in the public interest to make the Supplemental CPO and proceed with the scheme of highway improvements. The Council considers there to be a public interest for making the Supplemental CPO for the same reasons.
- 4.8 The MHCLG Guidance states that undertaking negotiations in parallel with preparing and making a compulsory purchase order can help to build a good working relationship with those whose interests are affected by showing that the authority is willing to be open and to treat their concerns with respect. Whilst the acquiring authority must make all reasonable efforts to acquire the land by negotiation, it is no longer the case that the making of a compulsory purchase order has to be a last resort. Acquiring authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted.
- 4.9 Landowners have been made aware of the desire to acquire the land and the potential for the use of compulsory purchase powers. Negotiations have been ongoing with respect to the purchase of the land required and compensation. Where relevant, dialogue has also taken place and will continue to take place in relation to mitigation and remedial works or relocation. The Council's Land Portfolio Officer has initiated negotiations with all landowners. The Council will continue to make meaningful attempts to reach agreement on a voluntary basis. Where mitigation measures or remedial works is appropriate, the Council is taking a proactive and sensitive approach to work with businesses to minimise adverse impact.
- 4.10 In summary, in exercising its powers to make the Supplemental CPO the Council is satisfied that it may lawfully do so under the powers set out above and that there is a compelling case in the public interest for such exercise and that the public interest is sufficiently important to justify the interference with private rights in making improvements to the highway.

5. NEED FOR ACQUISITION

The A629 strategy is classified as a core project by West Yorkshire Combined Authority ("WYCA") and has the status of being the largest individual project within the WY+TF programme.

Church Street / Deal Street

- 5.1 The Original CPO provides for the acquisition of part of the forecourts and basements of residential terrace properties known as Heritage Mews on the eastern side of Church Street and north of Bath Street. The Council intended to acquire this land to facilitate the widening of Church Street – the current design follows a widening to the west commencing from the intersection with New Road (land has already been purchased to facilitate these works), however at the midpoint of Church Street's linear length, the widening switches to the eastern side, which gives rise to the need to acquire land within the curtilage of the Heritage Mews properties. This introduces a mild chicane effect and implicates a complex structural design to the Heritage Mews cellars, in addition to significant utility diversions.

- 5.2 From a highway geometry perspective, it had been considered desirable to widen the Church Street highway along its western side by incorporating the frontage of Deal Street, which forms a junction with the western side of Church Street. However, the listed status of the Deal Street Mill building at the junction prevented this option being explored previously.
- 5.3 During June 2021, the gable end unit of the Deal Street Mill was demolished by the owner, having gained approval from the Council's Planning Team and Historic England to annul the properties listed status due to significant structural issues. This provides an opportunity to widen Church Street into the demolished footprint of Deal Street Mill, which it is considered would deliver a more satisfactory western focused highway design along Church Street. This would also provide a less complex engineering solution and remove the need to acquire the Heritage Mews land on the eastern side.
- 5.4 In addition to the footprint of part of the former Deal Street Mill, a further small land strip is required adjacent to the demolished mill to enable full highway widening along the western side of Church Street.
- 5.5 The land to be acquired to enable the proposed revised design of the Church Street widening is shown on Supplemental CPO Map No. 1.

Broad Street Plaza / Northgate

- 5.6 It has also been identified that a further area of land adjacent to the Broad St Plaza / Northgate signal junction is required to enable the introduction of a new pedestrian crossing and segregated cycle lane infrastructure. At the time that the Original CPO was made, it had been thought that this land formed part of the adopted highway as it forms part of a wide paved forecourt area (with no break in paving material), however it has since been established that this paved area is divided into a private curtilage boundary via discrete brass studs set into the paving.
- 5.7 The Council intends to acquire the remaining section of the paved area in this location to facilitate the delivery of the new pedestrian crossing and segregated cycle lane, and to enable this area to become part of the public adopted highway upon completion of the works.
- 5.8 The land to be acquired to enable these works is shown on Supplemental CPO Map No. 2.

6. SCHEME INFORMATION

- 6.1 The following sections of the Original Statement of Reasons, which provide detailed information about the scheme and the Original Orders, apply equally to the making of the Supplemental CPO and should be read accordingly:
- Sections 5 & 12 – explanation of the West Yorkshire Plus Transport Fund (the source of funding for the scheme) and a Funding Statement.
 - Section 6 – the scheme context and the current economic and development situation and transport needs.

- Section 7 – alignment with national, regional and local policy.
- Section 8 – the existing problems and issues – in terms of transport, connectivity, economic issues and public health – which the scheme seeks to address.
- Section 9 – the scheme objectives and measures for success.
- Section 13 – options considered.
- Section 14 – benefits and justification for the scheme.

7. MODIFICATIONS TO SCHEME

7.1 Details of the proposed design changes to the scheme can be found in the revised General Arrangement drawing provided at Appendix A of this Statement of Reasons.

7.2 The Council will be requesting that, if the Secretary of State decides to confirm the Orders, modifications are made to the Original CPO as follows:

- (a) Plots 3/1 and 3/1 (part of the forecourts and basements of the the residential properties at Heritage Mews to the east of Church Street) are deleted from the Original CPO Schedule;
- (b) The Original CPO Map No. 3 is deleted.

8. SIDE ROADS ORDER

8.1 The Side Roads Order was made to enable the Council to stop up existing side roads and private means of access affected by the proposed scheme; to improve, raise, lower, divert or otherwise alter existing side roads; and to create new side roads and private means of access required as a consequence of the scheme. These are summarised in the Original Statement of Reasons.

8.2 The modifictaions referred to above will result in changes to the proposed classified road boundaries along Church Street (part of the C5954) and Northgate (part of the C5955). These changes will be reflected in revised Side Roads Order plans.

9. APPRAISAL OF OPTIONS

9.1 Widening Church Street on its western side would have been the preferred option at the beginning of the scheme had it not been for Deal Street Mill being listed. Widening on either the western or eastern side forms a slight chicane in the layout but to a lesser extent on the western side. Widening on the eastern side would affect residential properties. There are utilities connections into the properties via the cellars which currently extend beneath the existing highway. The cellars would need to be reconstructed and the utilities altered which would be complex and costly. Widening to the west negates the need to take land to the east of Church Street and therefore, those alterations would no longer be necessary. The western side is vacant land and very little additional diversion work is required from the statutory undertakers, if any. Bearing in mind, the extensive statutory undertakers works required plus

cellars mitigation on the eastern side, it is considered that the revised design now being taken forward will also take a lot less time to construct and therefore create much less disruption.

10. HUMAN RIGHTS ACT

- 10.1 The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights (“**the Convention**”). The Convention includes provision in the form of Articles, the aim of which is to protect the rights of the individual.
- 10.2 Section 6 of the Human Rights Act prohibits public authorities from acting in a way which is incompatible with the Convention. Various Convention rights may be engaged in the process of making and considering a compulsory purchase order, notably Article 1 protects the right of everyone to the peaceful enjoyment of possessions. No-one can be deprived of possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. In addition Article 8 protects the right to respect for your private and family life.
- 10.3 The European Court of Human Rights has recognised in the context of Article 1 that regard must be had to the fair balance which has to be struck between the competing interests of the individual and of the community as a whole. Similarly any interference with Article 8 rights must be necessary for the reasons set out. Both public and private interests are to be taken into account in the exercise of the Council's powers and duties as a local highway authority. Any interference with Convention Rights must be necessary and proportionate.
- 10.4 In considering this Order, the Council has carefully considered the balance to be struck between individual rights and the wider public interest. Any interference with Convention rights is considered to be justified in order to secure the economic, social, physical and environmental regeneration that the redevelopment will bring. Appropriate compensation will be available to those entitled to claim it under the relevant provisions of the relevant statutory provisions.
- 10.5 The Council considers that there is a compelling case in the public interest for contemplation of the Orders and that the Orders, if confirmed, would strike an appropriate balance between public and private interests. In addition, having regard to the legislative provisions and the guidance set out in Crichel Down Rules, the Council considers that the land included in the Supplemental CPO (and the Original CPO) is both suitable for and necessary for the improvement to Halifax town centre in order to deliver the public benefits described above. Furthermore the Council considers that interference with individual rights is necessary and proportionate in the context of the delivery of the scheme.
- 10.6 Consultation has and will continue to be undertaken during the acquisition process, with the opportunity being given for interested parties to make representations regarding the proposal. If qualifying objections to the Supplemental CPO are received, further representations can be made when the Secretary of State decides to hold a public inquiry in connection with the Orders. Those directly affected by the Supplemental CPO and/or Orders who have legally compensatable interests will be entitled to statutory compensation. Compensation claims can be referred to the Upper Tribunal (Lands Chamber) for determination if the appropriate level of compensation is in dispute.
- 10.7 In assessing human rights considerations, the Council has had particular regard to the fact that the proposed acquisition will affect land currently owned and occupied by the owners, lessees, occupiers and other legal interests in the land included in the Supplemental CPO.

11 SPECIAL CONSIDERATIONS

- 11.1 The Deal Street Mill located on the corner between Church Street and Deal Street was a vacant grade 1 listed building dating from the 19th Century, formerly a wool warehouse. The gable end unit of the Deal Street Mill was demolished by the owner, having gained approval from the Council's Planning Team and Historic England to annul the properties listed status, due to significant structural issues implicating immimant collapse. The Council has been working with the owner to find a long term resoration solution, but following work carried out two years ago by the owner to stabilise the property, further significant deterioration occurred leading to the decision to demolish. The Local Planning Authority and conservation officers have confirmed that listed building consent is not required for the proposed works in this location.
- 11.3 The land included in the Supplemental CPO falls within a conservation area, but the Supplemental CPO does not provide for the compulsory acquisition of any buildings which fall within the conservation area.
- 11.4 There are no other issues concerning special category land, consecrated land or other protected land arising from the Supplemental CPO, and the Supplemental CPO does not include any Crown land.

12 OTHER IMPEDIMENTS

- 12.1 The design changes at Church Street described above will require a variation to the existing planning permission for the scheme. This application is in the process of being progressed and, based on discussions with planning officers to date, the Council sees no reason why the variation will not be approved.
- 12.2 The Council is not aware of any financial, planning, physical, legal or any other impediments to the implementation of the scheme which the Original Orders and the Supplemental CPO are intended to facilitate.

13 ENQUIRIES

- 13.1 Those parties affected by the Order who wish to discuss matters with a representative of the Council should contact:

The Borough Council of Calderdale, Corporate Projects Team, Town Hall, Halifax, HX11UJ
Email: Thenextchapter@calderdale.gov.uk

14 SUPPORTING DOCUMENTS

- 14.1 Section 21 of the Original Statement of Reasons contains a list of the documents which the Council may refer to or put in evidence should it be necessary to hold a public inquiry into the Original Orders and the Supplemental CPO.

