

NCC/NB/1

THE HIGHWAYS ACT 1980

AND

THE ACQUISITION OF LAND ACT 1981

THE NOTTINGHAMSHIRE COUNTY COUNCIL (A614 / A6097 JUNCTIONS IMPROVEMENTS
SCHEME) (SIDE ROADS) ORDER 2022

THE NOTTINGHAMSHIRE COUNTY COUNCIL (A614 / A6097) COMPULSORY PURCHASE
ORDER 2022

PROOF OF EVIDENCE

OF

NIGEL BILLINGSLEY BSc MRICS Pg Dip MCIWM OF BRUTON KNOWLES

ON BEHALF OF THE ACQUIRING AUTHORITY

1. QUALIFICATIONS AND EXPERIENCE

1.1 My full name is Nigel Billingsley. I am an equity partner at Bruton Knowles LLP, a firm of chartered surveyors with the head office at Olympus House, Quedgeley, Gloucester GL2 4NF. The firm operates from some 12 offices throughout the UK. I lead our Utility & infrastructure team across the Midlands and North.

1.2 I am a member of The Royal Institution of Chartered Surveyors (RICS) having qualified in 1990, I am also an RICS registered valuer and a member of the Compulsory Purchase Association. I obtained a BSc Degree in Minerals and Estates Management from Sheffield Polytechnic in 1988 and was awarded a post graduate diploma in Urban Studies from Northumbria University in 1992.

1.3 I have worked for Bruton Knowles since 2004 and have practiced predominantly within the field of compulsory purchase and compensation. I have acted for a number of acquiring authority clients and claimants affected by projects including Compulsory Purchase Orders (CPO), Development Consent Orders (DCO) and Transport & Works Act Orders (TWAO).

1.4 As lead partner for the project my role is to manage the property negotiations with those affected by the Scheme. I manage a small project team within Bruton Knowles which also conducts negotiations under my guidance. I have not been directly involved in negotiations but have reviewed correspondence regarding negotiations prior to being sent out and upon receipt.

1.5 I am aware of the details of the Scheme from the study of the application documents including Scheme drawings. I have familiarised myself with the properties affected and the locality of the various sites along the A614/A6097 where the works are to take place by attending these locations. I have also attended meetings with the project managers at Via EM in addition to meeting regularly with the wider project team.

1.6 Where I have not undertaken discussions personally with landowners I have been kept fully informed by colleagues, in particular Mr Charles Powell (Graduate Surveyor), Mr Patrick Hackett (Land Manager) and May Beaney (Senior Associate) who have provided me with relevant notes of meetings and correspondence.

1.7 I have studied publicly available information on properties that I have not been able to inspect, and I have considered the objections and representations that have been submitted.

2. INVOLVEMENT WITH THE A614 UPGRADE PROJECT

2.1 Bruton Knowles were instructed to provide land agency services on 14th December 2018, I have been the Senior Partner for all CPO work for Bruton Knowles in the midlands and north and have had knowledge of the project since its inception. I became directly involved with the project in November 2022 following the resignation of a colleague.

3. SCOPE OF EVIDENCE

3.1 My evidence will address the following points;

3.1.1 Nottinghamshire County Council's (NCC) approach and justification for the acquisition of land.

3.1.2 The scope and requirement for the acquisition powers sought under the CPO.

3.1.3 Description of NCC's attempts to reach agreement with landowners and occupiers who have objected to the Scheme.

3.2 In particular I will consider the following landowners and occupiers:

- 3.2.1
1. Mr & Mrs Harman
 2. Motor Fuel Group Limited (MFGL)
 3. National Grid Electricity Distribution (East Midlands) PLC (NGED)
 4. Mr & Mrs Orr-Palladino

4. ACQUIRING AUTHORITY'S APPROACH TO LAND ACQUISITION

4.1 NCC has had due regard to paragraphs 12 to 15 of the Department for Communities and Local Government (DCLG) Guidance on the Compulsory Purchase process and the Crichel Down Rules (the DCLG Guidance) in formulating the scope and justification for seeking powers of compulsory acquisition in the CPO.

4.2 NCC, acting in accordance with the DCLG Guidance and taking account of the Scheme requirements, has sought to minimise the land and rights to be acquired or used to the extent necessary for the construction and operation of the Scheme.

- 4.3 The Scheme design has had regard to the impact of the works and the operation and maintenance of the Scheme post-completion of the works. Following the confirmation of the initial designs, NCC sought to engage with relevant stakeholders to fully understand the issues that landowners and other interested parties have.
- 4.4 Details of the consultation that was undertaken is set out in the Planning Statement section 3 (CD4.3). This demonstrates that considerable efforts were taken to consult with interested parties prior to confirming the Scheme proposals.
- 4.5 NCC considers it important to minimise the land required in the CPO as such the engineering design and consultation processes have been undertaken to ensure the land identified for both temporary and permanent acquisition is that which is required for the successful development of the Scheme.
- 4.6 However, despite seeking to minimise the land required for the Scheme, the nature of it requires that land and rights outside the control of NCC are required.
- 4.7 NCC have sought to acquire the land included within the compulsory purchase order (“the Order Land”) , being such that is reasonably required in order to construct and operate the Scheme in a safe, timely and economically efficient manner; to ensure that all of the land required for the Scheme can be acquired within a realistic timescale and to ensure that no individual landowner is able to hold up the Scheme through a refusal to sell or license their interest and further that no adverse interests prevent the Scheme from going ahead.

4.8 Although compulsory purchase powers are required to facilitate the Scheme all affected parties or their nominated agents, who own, lease or occupy land have been contacted by NCC with a view to seeking a negotiated agreement for the acquisition of their land, either on a temporary or permanent basis. A summary of the land acquisition progress of each plot is shown at Appendix NB1 and stakeholder engagement schedule at Appendix NB2.

4.9 Therefore, the confirmation of the CPO would provide certainty that NCC will be able to deliver the Scheme.

5. LAND INTEREST HOLDERS AFFECTED BY COMPULSORY ACQUISITION

5.1 Some 96 separate interest owners are included in the Book of Reference (The Nottinghamshire County Council (A614/A6097 Junctions Improvement Scheme) Compulsory Purchase Order 2022 Schedule). Four objections were received however, they have subsequently been withdrawn and details of these are set out below in section 6 of this Statement. It is evident to me that none of the outstanding objectors have not sought to object to or make representations in relation to the principle of the Scheme.

5.2 NCC will continue, where possible, to seek to secure the land required either permanently or temporarily for the Scheme through private agreement with affected landowners.

6. ANALYSIS OF OBJECTIONS

6.1 I set out below an analysis of each of the objections that are current at the date of this Statement:

6.2 Mr and Mrs Harman – Objection 01

6.2.1 Mr and Mrs Harman submitted an objection dated 14 November 2022 (CD15.1.1), whilst they do support the new scheme the objection can be summarised as follows:

6.2.2 The land known as plot 37 is a registered Public Right of Way (PROW) and they cannot see why the CPO is absolutely necessary.

6.2.3 The red line on the plan does not accurately reflect the actual position of the path. It appears the path over many years has migrated closer to the property known as 10 Kirk Hill. When NCC take ownership of a 2-metre-wide area, it will be obstructed by trees resulting in a 1 metre width path.

6.2.4 The acquisition of Plot 37 would lead to an augmented end of the purchase land strip due to a large tree currently obstructing the route.

6.2.5 Via EM responded to this objection by letter on 22 December 2022 (CD15.1.2). In this response Via EM explained that whilst the route is currently used by members of the public between the A6097 and Kirk Hill, it is not currently recorded as a definitive PROW. Via EM made it clear that the scheme only intends to formalise the current use of the existing route

and has no intention to undertake any additional works outside the existing route and no trees intend to be removed to widen the existing route.

- 6.2.6 At the time of writing this Statement and following negotiations between the objectors and NCC Mr and Mrs Harman have completed documents for the formal dedication of the PROW. Mr and Mrs Harman have withdrawn their objection via email dated 4 June 2023. (A copy attached at Appendix NB3)

6.3 Motor Fuel Group Limited (MFGL)– Objector 02

- 6.3.1 Barber Wadlow submitted an objection on behalf of Motor Fuel Group Limited dated 14 November 2022 (CD15.2.1) on the basis that the exact impact the scheme will have on the operational petrol filling station is uncertain, appearing to reduce the width of the access, with the potential to have a detrimental impact on trading.

- 6.3.2 Via EM responded to the objection by letter on 22 December 2022 (CD15.2.2). In this response Via EM explained that following discussions it was MFGL preference to be served statutory notice to protect their position and to ensure there is a clear route to compensation. Via EM clarified that access to the site will be maintained at all times, they will endeavour to minimise disruptions, confirmed that the land is only required temporarily, specified the works required at plot 9 and provided further information on the approximate duration of works as well as an updated programme for works at the Ollerton Junction.

6.3.3 At the time of writing this Statement and following negotiations between the objectors and NCC, an agreement has been reached with MFGL. Barber Wadlow have confirmed they are instructed to withdraw the objection on their behalf of MFGL by email dated 5th September 2023 (A copy attached as Appendix NB4).

6.4 National Grid Electricity Distribution – Objector 03

6.4.1 Geldards LLP submitted an objection on behalf of National Grid Electricity Distribution (East Midlands) Plc (formerly Western Power Distribution (East Midlands) Plc) dated 17 November 2022 (CD15.3.1) and can be summarised as follows:

6.4.2 The Order may not fully detail their interests, rights and apparatus.

6.4.3 The apparatus is vitally important to the electricity distribution networks and they are concerned as to the impact on NGED’s ability to ensure security of electricity supply.

6.4.4 The Order does not adequately address how NGED’s network will be protected during construction and following completion, nor does it set out details of any replacement substation, cables and/or other apparatus that may be required.

6.4.5 The Order does not provide adequate information to allow NGED to understand the design and construction, therefore they are not able to understand the full extent of the potential operational implications.

6.4.6 The Order does not provide sufficient information for NGED to understand how they would continue to fulfil its statutory responsibilities.

6.4.7 Via EM responded to the objection by letter on 22 December 2022 (CD15.3.2). In this response Via EM proposed entering into an Asset Protection Agreement (APA).

6.4.8 At the time of writing this Statement and following negotiations between the objectors and NCC, an agreement has been reached with NGED. Geldards LLP have withdrawn the objection on their behalf via letter dated 1st September 2023 (A copy attached as Appendix NB5)

6.5 Mr and Mrs Orr-Palladino – Objector 04

6.5.1 Kirkland & Lane submitted an objection on behalf of Mr and Mrs Orr-Palladino dated 16 November 2022 (CD15.4.1) and can be summarised as follows:

6.5.2 The CPO plan does not identify the full extent of the building known as 15 Nottingham Road, and the plan is out of date and inaccurate, it fails to show the building extension. This meaning the proposed land take covers part of the property.

6.5.3 The proposed new access will create a dangerous highway hazard due to the proximity to the current and proposed roundabout.

6.5.4 The new communal right of access will blight the property and have impact upon its value.

- 6.5.5 Via EM responded to the objection by letter on 22 December 2022 (CD15.4.2). In this letter Via EM provided responses to matters raised in the letter of objection and further issues raised by email dated 2 December 2022, the response can be summarised as follows:
- 6.5.6 Via EM provided assurance that there is no requirement to demolish part of the property and plot 30 is only required for temporary works, the plan was produced using Ordnance Survey map which has not been updated since construction of the extension.
- 6.5.7 Via EM advises during construction plans will be in place to ensure full communication with the residents to ensure access is maintained, and currently the proposal is for 'marshals' to assist with access and egress.
- 6.5.8 Via EM advises the proposed access road is not taking existing private land from the objectors and none of the neighbours would be passing in front of their property once in use. It is not the projects belief that this will negatively impact the properties value, but rather enhance it with the new access arrangement.
- 6.5.9 NCC are not seeking to acquire permanent rights or legal ownership over the objectors land, nor demolish and buildings.
- 6.5.10 The Councils intention that the plot 28 will be transferred to the objector upon completion of the works.

6.5.11 Corrected the incorrect statement that “NCC propose to run utilities’ cabling and pipes under the land reserve rights to NCC to maintain and repair. Via EM clarified that the utilities are already in place and have been historically, there’s no plans to add to these.

6.5.12 The proposed easement will be granted to the existing utilities.

6.5.13 At the time of writing this Statement and following negotiations between the objectors and NCC, a formal agreement has been reached with Mr and Mrs Orr-Palladino, and Kirkland & Lane have withdrawn the objection on their behalf via email dated 29th August 2023 (A copy attached as Appendix NB6)

7. SCOPE OF ACQUISITION

7.1 The CPO, if approved, will grant NCC the powers to permanently acquire the land, or rights over land, needed to construct, operate and maintain the Scheme. NCC seeks compulsory purchase powers to acquire no more land than is reasonably required in order to construct, operate and maintain the Scheme in a safe, timely and economically efficient manner.

7.2 The extent of the land to be compulsorily acquired has been determined by the design and construction requirements for all elements of the Scheme including the new roadworks, together with ancillary works such as utility diversions, environmental mitigation and accommodation works.

7.3 Land and property within the order limits of the CPO may be acquired or used by NCC for the Scheme for a number of different purposes, including:

7.3.1 Permanent acquisition of rights over land

7.3.2 Permanent acquisition of land

7.4 NCC also seeks powers within the CPO to acquire rights over land. In the case of certain plots, NCC has restricted its compulsory powers to the acquisition of rights only for the purposes which have been specified in the CPO and its accompanying plans.

7.5 I have considered the compulsory rights and interests sought by NCC and have compared them to the engineering requirements as far as I am able technically to do. I am satisfied that the powers of compulsory acquisition sought by NCC are necessary for them to deliver the Scheme and that only the land and interests required to deliver the scheme are included within the CPO.

8. COMPULSORY PURCHASE AND THE COMPENSATION CODE

8.1 The powers sought within the CPO will enable NCC, upon the service of appropriate notices, to enter on and take possession of the numbered land plots (Order Plots) within the Order plans in order to carry out the works required to construct the Scheme. These Order Plots are shown on the Deposited Plans and Sections (CD3.2.1 to CD3.2.4) and are described in the Book of Reference (CD3.1). Both of these documents were submitted by NCC with the CPO.

- 8.2 The CPO powers would enable NCC to take possession of land within the order limits without the landowner's consent, if necessary. However, NCC will continue to seek to reach agreement for land entry with the landowners, in advance of using compulsory purchase powers in accordance with the DCLG Guidance.
- 8.3 Affected landowners are able to recover compensation for loss arising from the exercise of the powers set out within the CPO. In particular, Part 1 of the Compulsory Purchase Act 1965 which, through its application, has the effect of requiring NCC to pay compensation to qualifying parties whose land is permanently acquired under what is known as the compensation code. The compensation code as it now stands is an amalgamation of numerous Acts of Parliament and legal precedents which have evolved over more than 150 years.
- 8.4 In summary the code provides for the recovery of loss of the value of the interest taken, severance and injurious affection and disturbance losses where they can be proven. In addition, the code provides for the advance payment of compensation thereby ensuring the interest holder is not out of pocket in the event land interests are acquired.
- 8.5 Land and property owners upon whom notice is served will be entitled to claim compensation in accordance with the compensation code, which provides a consistent approach to the assessment of fair compensation. There are also provisions within the code for recovery of compensation by parties who have not had land taken by the Scheme under in certain specific circumstances.

8.6 The total amount of any compensation to be paid is usually agreed between the parties. In the event that an agreement between the parties cannot be reached then the amount of compensation can be independently determined. Where there is a disputed claim both parties may choose to make a joint reference via the Alternative Dispute Resolution process, or one or both parties can make a reference to the Lands Chamber of the Upper Tribunal.

9. HUMAN RIGHTS

9.1 Article 1 of the First Protocol to the European Convention on Human Rights states that “Every natural or legal person is entitled to peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties”.

9.2 Article 1 is a qualified right in that no one shall be deprived of his possessions “except in the public interest and subject to the conditions provided for by law”. The compulsory acquisition of land for the Highway Purposes specified in the Draft Order is authorised by, and subject to, **the Highways Act 1980**. By enacting the 1980 Act the Government has determined that, subject to procedural safeguards, it can be in the public interest that individuals be deprived of their land for highway purposes. The procedural safeguards are provided by the 1980 Act and the Compulsory Purchase (Inquiries Procedure) Rules 2007

which enable objections to be raised to compulsory acquisition and considered by an independent inspector. In addition, where land is authorised to be compulsorily purchased by the making of an order, compensation will be payable under the compensation code as applied by that order, I consider the compensation provisions as set out above (Section 8) provide sufficient safeguards to ensure that an affected party is properly compensated for any loss due to acquisition of their land interest. Where disputes as to the amount of compensation arise, these may be referred for independent consideration by the Lands Chamber of the Upper Tribunal.

9.3 The Draft Order is being pursued in the public interest, as is required by Article 1 of the First Protocol where compulsory acquisition of property is concerned. The public benefits associated with the Draft Order are set out in the Proofs of Evidence of Tom Boylan [NCC/TB/1] for these reasons, the highway purposes for which the Draft Order powers are being sought are sufficient to justify interfering with the human rights of the landowners proposed to be affected. The Draft Order, including the requirement to pay compensation, strikes a fair and proportionate balance between the private interests of the landowners and the public interest in securing the benefits of the Scheme to the counties road network. Therefore, the interference with Convention Rights is compellingly justified in the public interest.

10. SUMMARY

10.1 At the date of this evidence, NCC continue to engage with each of the remaining objectors in order to resolve objections to the CPO.

- 10.2 The land and rights to be acquired and included in the CPO have been carefully considered and reviewed throughout the CPO process.
- 10.3 All reasonable efforts have been undertaken by NCC to reduce the impact of the Scheme with the land and rights within the scope of the CPO being only those proportionate to meet the construction and design requirements of the Scheme.
- 10.4 Compensation for the exercise of compulsory purchase powers will be payable by NCC in accordance with the compensation code.

11. WITNESS DECLARATION & STATEMENT OF TRUTH

11.1 Statement of declaration

Hereby declare as follows:

- 11.2 This proof of evidence includes all facts which I regard as being relevant to the professional opinion which I have expressed, and I have drawn the inquiry's attention to any matter which would affect the validity of that opinion.
- 11.3 I confirm that I am able to give evidence in light of my relevant experience as summarised above. I can confirm that the evidence I prepared is in accordance with the guidance of my professional institution and that the opinions given are my true professional opinions.

11.4 I believe the facts which I have stated in this proof of evidence are true and that the opinions are correct.

11.5 I understand my duty to the Inquiry to help it with the matters within my expertise and I believe I have complied with that duty.

Signature & Date

A handwritten signature in black ink, appearing to read 'Nigel Billingsley', written in a cursive style.

Nigel Billingsley
5th September 2023