# THE ABERDEEN CITY COUNCIL (B999 / SHIELHILL ROAD JUNCTION IMPROVEMENTS) COMPULSORY PURCHASE ORDER 2024

# STATEMENT OF REASONS

ABERDEEN CITY COUNCIL

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**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 (B999 / Shielhill Road Junction Improvements) Compulsory Purchase Order 2024" ("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. The Council has also had regard to "Compulsory purchase orders and acquiring authorities: guidance on CPO use" published by the Scottish Government in April 2018.

1.3 On 21 August 2024 the Council resolved to make the CPO to acquire land and rights in land required for the construction of the B999 / Shielhill Road Junction Improvements ("the Project").

1.4 The Project consists of the realignment of the existing B999 at its junction with Shielhill Road, forward visibility improvements on Shielhill Road at the double bend close to the junction with the B999 and a reduction in the speed limit on the B999 and Shielhill Road to 40mph.

1.5 This Statement of Reasons sets out the background to, the purpose of, and the justification for making the CPO.

## 2 Project Description and Land

2.1 The Project will consist of the following main elements –

- Realignment of the B999
- Reconfiguration of the B999 / Shielhill Road junction
- Removal of the stone wall on north side of Shielhill Road over extents of double bend
- Widening of the verge on the north side of Shielhill Road over extents of double bend
- A culvert extension on the east of the existing culvert at the Burn of Mundurno to accommodate the realigned carriageway
- Regrading of slopes on the north side of Shielhill Road over extents of double bend and

- Reduction in the speed limit from 60mph to 40mph on Shielhill Road.

2.2 The land which is proposed to be acquired ("the CPO land") is mainly agricultural and/or verge. No residential land is included, and no residential or commercial buildings are proposed to be acquired.

2.3 The plots of land which are the subject of the CPO (23 plots in total) are detailed in the schedule to the CPO and on the map (comprising one sheet) attached to the CPO ("the Map"). The plots of land to be acquired permanently, shown shaded pink on the Map, extend to 10,095 square metres or thereby in total. The plots over which temporary possession or other rights in land are to be acquired, shown shaded green on the Map, extend to 8,145 square metres or thereby.

2.4 The CPO land lies within the Bridge of Don Community Council boundary.

**3 Purpose and Background**

3.1 The B999 / C19C Shielhill Road junction alignment is currently substandard presenting difficulties to road users attempting to negotiate the junction. The western approach to the priority junction along the C19C Shielhill Road also suffers from poor forward visibility detrimental to the use of the road.

3.2 The Aberdeen Local Development Plan 2012 identified opportunity site OP25 Dubford (35.8ha) for the future development of 550 homes, as part of the Dubford and Murcar Masterplan zone on the northern edge of Aberdeen and immediately north of the established residential area of Denmore. OP25 is bounded to the north by Shielhill Road and bounded to the east by the B999. In the Aberdeen Local Development Plan 2017, OP25 was retained as an opportunity site but was renamed as opportunity site OP10 Dubford . The remaining undeveloped part of OP10 remains designated as opportunity site OP10 in the Aberdeen Local Development Plan 2023.

3.3 The Dubford Development Framework ("the DDF") was prepared by developer Scotia Homes in January 2012 as a masterplan for OP25 and has the status of planning guidance.

3.4 On 19 and 27 September 2013 various planning permissions ("the Permissions") were granted for development forming part of the then OP25 -

3.4.1 planning permission (reference number P120722) was granted for 81 houses and 28 flats on land to the south of Shielhill Road;

3.4.2 planning permission in principle (reference number P120723) was granted for proposed residential development (550 units) on land to the south of Shielhill Road;

3.4.3 planning permission (reference number P121422) was granted for mixed use development including 41 houses and 5 commercial units on land to the south of Shielhill Road and

3.4.4 planning permission (reference number P121387) was granted for 191 houses on land to the south of Shielhill Road.

3.5 A transport assessment ("TA") was carried out by consultants WSP in relation to the associated planning applications which assessed the impact of development of the whole opportunity site (assuming 700 houses). The TA confirmed that the alignment of Shielhill Road did not meet the requirements for a 40mph road in accordance with the Design Manual for Roads and Bridges at two locations, namely at the double bends located adjacent to the northern eastern corner of the development site (minimum forward visibility of approximately 90metres) and at the bend which is located in the vicinity of the western site access (forward visibility of approximately 70metres).

3.6 The TA proposed various mitigation measures involving third party land including the relocation of the B999 / Shielhill Road junction to the south to improve visibility for traffic joining the B999 from Shielhill Road and the realignment of Shielhill Road to the east of the eastern site access to facilitate connection with the relocated junction as well as a reduction in the speed limit to 40mph (from the then national speed limit).

3.7 Planning agreements in terms of section 75 of the Town and Country Planning (Scotland) Act 1997 relating to the Permissions ("Planning Agreements") were entered into with the Council in order to secure a financial contribution towards a package of local transport improvements including realignment and reconfiguration of the B999 / Shielhill Road junction and forward visibility improvements on the C19C Shielhill Road which would be delivered by the Council given the need for third party land.

3.8 In advance of the Project coming forward, interim safety measures were implemented, including installation of more conspicuous warning chevrons, signage and additional road markings. A traffic regulation order was also promoted to reduce the speed limit on Shielhill Road, at its junction with the development access, from 60mph to 40mph.

3.9 The majority of OP25 / OP10 has now been developed, with the undeveloped portion of the site remaining designated as an opportunity site (OP10) within the Local Development Plan 2023.

3.10 Preliminary work on the Project identified that the relevant developer contributions under the Planning Agreements would not cover the full cost of developing and implementing an improvement. At its meeting of 3 March 2020, the Council agreed to provide additional funding within the capital plan to progress the Project. However, the Project was then delayed due to the Covid-19 pandemic and the need to prioritise the *Spaces for People* Programme which required the adaption of public roads to enable users to adhere to Scottish Government physical distancing guidance. Consequently resources from capital projects were temporarily reallocated to work on these projects.

3.11 Development of the Project resumed in November 2021. Preliminary design work and preparation was carried out including traffic flow & junction type assessment (post Aberdeen Western Peripheral Route), road alignment design, land title confirmation and utility undertaker apparatus identification and preliminary enquiries.

3.12 As the Project has progressed further options to address the desired safety improvement were considered. Traffic signals were ruled out due to the additional capital and operational costs and reduced junction capacity. The original feasibility design was also not favoured due to a significant amount of higher value land being required from OP10, reducing its development area. It also required a new culverted crossing of the Burn of Mundurno adding to project cost. The preferred design is focused on improving the junction at its current location with reduced requirements to use developable land, while also limiting the need for additional culverting of the burn.

3.13 The Project is a priority investment within the Council's capital plan.

## 4 Justification for making the Compulsory Purchase Order

4.1 The Project will remove the tight bend immediately north of Shielhill Road, introducing a slower curve to the east side of the existing B999. Shielhill Road will be extended to meet the new position of the B999 forming the new junction. It will also improve the forward visibility at the double bend on Shielhill Road by removing the stone wall, widening the verge and re-grading the slopes. Taken together with a reduction in speed to 40mph on the B999 and Shielhill Road, the Project will provide substantial road safety benefits whilst also retaining junction capacity, accommodating existing and future demands and benefitting network performance.

4.2 The Project is consistent with or complimentary to other transport projects and strategies currently being promoted in Aberdeen City, including the Aberdeen City Centre Masterplan, Aberdeen Local Transport Strategy, and the North East of Scotland Roads Hierarchy.

4.3 The Project is supported by, or is consistent with, relevant planning and transport policy at a national, regional and local level.

4.4 The CPO is required as the CPO land is reasonably required for the Project, and it is unlikely that the CPO land will be acquired voluntarily in order to deliver the Project within a reasonable timeframe.

4.5 Accordingly, there is a compelling case in the public interest for the use of compulsory purchase powers in this case.

## 5 Use of land after acquisition

5.1 The CPO land is to be used for the purposes of the Project including road construction, drainage, working space, access and mitigation measures.

## 6 Description of and need for any new rights being created

6.1 The CPO provides for the creation of new rights which are necessary for the delivery of the Project. These consist of temporary entry and possession rights which are required to enable the construction of the Project. The land required on a temporary basis will be reinstated to its original condition as far as 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, 104, 106 and 110 of the Roads (Scotland) Act 1984 ("the 1984 Act") to compulsorily acquire land and rights in 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 1984 Act 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 Extensive engagement and consultation have taken place in relation to –

8.1.1 the designation of the OP25 / OP10 site through various local development plan processes;

8.1.2 the creation of the DDF; and

8.1.3 the Permissions.

8.2 During public consultation on the emerging DDF, concerns were expressed about access along the B799, Shielhill Road and B999, with consultees expressing a desire for road improvements. Improvements to local junctions including at the B999 were identified as a priority.

8.3 During assessment of the various planning applications for the Permissions, the Council's Roads Section requested various transport related infrastructure improvements including those which became the subject of the Planning Agreements and ultimately the Project.

8.4 The Council wrote to landowners and occupiers likely to be affected by the Project on 27 March 2024 providing initial information about the Project; advising of the Council's ongoing investigations into land ownership; providing details of the Council's professional advisers and the appointment of the District Valuer, and explaining the Council's desire to acquire the necessary land for the Project on a voluntary basis but with the option of using compulsory purchase powers if required.

8.5 The Council has written to affected landowners / occupiers seeking access to their property for the purposes of ground investigations, which commenced in May 2024.

8.6 The Council has instructed the District Valuer to negotiate terms with affected parties for the voluntary acquisition of their interest in the CPO land.

8.7 The local community remains supportive of the Project as is demonstrated by regular communications with the Council enquiring as to progress.

8.8 Online engagement in relation to the Project commenced on 30 August 2024.

**9 Planning Position**

Aberdeen Local Development Plan ("ALDP") (2023)

9.1 OP10 Dubford is designated within the ALDP as an opportunity site, being the undeveloped part of the 550 home Dubford development, which is subject to the DDF.

9.2 The ALDP notes that existing masterplans for larger sites and/or sites in multiple ownership such as DDF will be taken forward as Aberdeen Planning Guidance.

9.3 Section 4 of the ALDP on Monitoring and Review – Infrastructure Planning and Delivery notes under the heading "Infrastructure Delivery for Developments" that the timely delivery of infrastructure is crucial to the success and deliverability of developments. The ALDP, in conjunction with the Delivery Programme, aims to ensure infrastructure requirements are identified early in the development process and these tools will be used to monitor and help facilitate its delivery.

9.4 In relation to the Masterplan zone of Murcar and Dubford, the ALDP notes a requirement for "direct road access from Dubford and Mundurno onto local roads connecting to B999 with potential new intersection". This is consistent with the DDF.

9.5 Policy I1 – Infrastructure Delivery and Planning Obligations – states that to create sustainable communities, development must be supported by the required infrastructure, services and facilities to deliver the scale and type of developments proposed. Where development either individually or cumulatively will place additional demands on community facilities or infrastructure that would necessitate new facilities or exacerbate deficiencies in existing provision, the developer will be required to meet or contribute to the cost of providing or improving such infrastructure or facilities.

9.6 Policy I1 goes onto state that depending on the scale of development proposed, developers shall have the opportunity to mitigate the impact of their development through the provision of new infrastructure in compliance with other relevant ALDP policies. Otherwise the impact of development shall be mitigated through financial contributions that shall be used by the Council to deliver new or expand existing infrastructure and facilities.

9.7 While the Permissions were granted under a previous local development plan, the approach adopted remains consistent with the ALDP, and delivery of the Project would implement the arrangements agreed within the Planning Agreements to mitigate development impacts.

9.8 The Project is therefore supported by and consistent with the ALDP.

Dubford Development Framework (DDF)

9.9 The principles for Planning set out in the DDF include under "Transportation" –

9.9.1 Provide a menu of improvements to increase capacity of the transportation system in pace with development.

9.10 Action items set out within the DDF include road and bridge improvements.

Consents and Other Orders

9.11 The Project benefits from permitted development rights in terms of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, Schedule 1, Part 12, Class 31. Planning permission is not therefore required.

9.12 A licence under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 is required in relation to the culvert extension works.

9.13 A traffic regulation order will be promoted in due course in terms of the Road Traffic Regulation Act 1984 as follows:

- Reduction in the speed limit from 60 mph to 40 mph on Shielhill Road and the B999.

9.14 It is reasonably anticipated that these will be confirmed or granted as appropriate.

## 10 Transport and Other Policy

### National Policies

National Transport Strategy ("NTS") 2 (2020)

10.1 The NTS recognises the key role that transport has in reducing inequalities, delivering inclusive economic growth, improving health and wellbeing, and tacking the climate emergency. It includes numerous key priorities and outcomes, including a shift to sustainable modes of transport, supporting new technologies, and reducing emissions.

10.2 The Project supports the improvement of health and wellbeing by helping to increase the safety of the transport system and meet casualty reduction targets.

### Regional Policies

Regional Transport Strategy for the North East of Scotland – Nestrans 2040 ("RTS") (2021)

10.3 The strategic objectives of the RTS include –

- Accessibility, Safety and Social Inclusion: To enhance choice, accessibility and safety of transport of all in the north east, particularly for disadvantaged and vulnerable members of society and those living in areas where transport options are limited.

10.4 Key priorities include zero fatalities on the road network. The RTS states that this priority links to the health and wellbeing pillar of the strategy, specifically road safety. Although there have been significant reductions in fatalities from road traffic collisions in recent years, the aspiration is to reduce this to zero. This is in line with the national framework for road safety which is moving towards a vision of zero fatalities on the road network. A particular focus will be on reducing the number and severity of all casualties and on reducing the number and proportion of vulnerable road users, such as pedestrians, cyclists and motorcyclists, involved in road traffic collisions.

10.5 Key issues for the North East noted in the RTS include the cumulative impact of development. In this respect the RTS recognises that infrastructure improvements can be funded through the planning system and developer contributions.

10.6 When discussing priority road enhancements (paragraph 11.133), the RTS recognises that improvements to address safety issues will still be required.

**Local Policies**

Aberdeen Local Transport Strategy ("LTS") (2016-2021)

10.7 The LTS was developed to set out the policies and interventions adopted by the Council to guide the planning and improvement of the local transport network for the period between 2016 and 2021.

10.8 The aims of the LTS include a safe and more secure transport system.

Draft Aberdeen Local Transport Strategy ("Draft LTS") (2023 – 2030)

10.9 The vision of the Draft LTS is –

"*A safe, resilient, high-quality transport system that is accessible to all, supports a vibrant economy, facilitates healthy living and minimises the impact on our environment. Aberdeen's transport network should encourage people to live in, work in and visit our city*".

10.10 Transport Planning Objectives include TPO3 – Safety – Improve the safety of the Aberdeen transport network and reduce safety issues for users.

10.11 Longer term outcomes identified within the Draft LTS include –

- Zero fatalities on the Aberdeen road network and an even greater feeling of safety for users of the transport network.

10.12 Outputs include safety improvements in Aberdeen.

10.13 Topic 31 within the Draft LTS is Traffic Management and Road Safety, acknowledging that road safety and traffic management are key to the successful operation of the transport network. Related actions (Policy 31) include continuing to implement road safety improvements, including traffic calming schemes and 20mph zones in order to reduce speeds aimed at minimising casualties and ensure that such schemes improve safety and encourage more pedestrians and cyclists.

Council Delivery Plan 2023/24 ("CDP")

10.14 The CDP notes that a Partnership Agreement setting out commitments over the next 5 years was presented to Council on 18th May 2022.

10.15 Partnership Agreement Commitments under the Partnership Agreement Theme "Keeping our City Moving" include delivering an improved and safer junction at Shielhill (i.e. the Project). Key milestones for 2023/24 for the Project are design work to progress facilitating land assembly, which when complete, will allow tender and construction to follow.

10.16 Delivery of the Project is therefore a Council priority.

Local Outcome Improvement Plan 2016 – 26 (Refreshed April 2024) ("LOIP")

10.17 The vision for Aberdeen expressed within the LOIP is "a place where all people can prosper". The LOIP sets out the means for achieving this vision. It contains 16 Stretch Outcomes which break down the overall vision into four themes of People, Place, Economy and Community Empowerment and into manageable thematic programmes of work.

10.18 The LOIP notes that all people in Aberdeen are entitled to live within our community in a manner in which they feel empowered, resilient and safe.

10.19 Stretch Outcome 10 (Prosperous People) is –

10.19.1 Healthy life expectancy (time lived in good health) is five years longer by 2026.

10.20 Stretch Outcome (Prosperous Place) 14 is –

10.20.1 Increase sustainable travel: 38% of people walking and 5% of people cycling and wheeling as main mode of travel and a 5% reduction in car miles by 2026.

10.21 Successful delivery of the Project will provide a safer road network for all users, including cyclists, consistent with these Stretch Outcomes.

Conclusion

10.22 The Project is therefore supported by or consistent with transport and other relevant policy and strategy at a national, regional and local level.

## 11 Funding

11.1 The Project is being funded by developer contributions secured by the Planning Agreements to the extent of £0.3m.

11.2 At its meeting of 3 March 2020, the Council agreed to provide additional funding of £0.34m within the capital plan to progress the Project.

11.3 The financial implications of the Project are continuing to be managed through detailed design budget monitoring and an updated detailed cost estimate will be produced later this year. Current indications suggest that there is likely to be a shortfall in the budget. It is proposed that any such shortfall will be taken account of in the Council's 2025/26 budget setting process. The Council will take a decision on the new budget at its meeting at the end of the 2024/25 financial year, anticipated to be in March 2025. Given the time limited availability of the developer contributions (identified at paragraph 12.1 below), the Council reasonably wishes to progress the CPO now.

11.4 Given the Council's support for the Project to date, including the decision of 21 August 2024 to approve the making of the CPO, and as demonstrated by the funds allocated within the current capital plan, it is reasonably anticipated that the Council will agree to allocate further funds as required to meet any budgetary shortfall.

11.5 The currently available funds are more than sufficient to allow the Council to meet its liability in compensation to affected owners under the statutory framework.

## 12 Barriers to Completing the Project

12.1 The developer contributions for local transport improvements obtained under the Planning Agreements improvements require to be utilised within 10 years of payment of the last instalment (by October 2026).

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

## 13 Human rights

13.1 The Project has been designed to minimise interference with the peaceful enjoyment of possessions by affected owners (of land or rights in land) 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 extent of the CPO land has been kept to a minimum.

Any interference with rights under Article 1 must 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.

13.2 The Council considers 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. The Council has also considered that statutory compensation will be available to affected landowners and others with qualifying land interests.

13.3 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. None of the plots proposed to be acquired are residential in nature. The Council therefore considers that Article 8 is unlikely to be engaged, however any interference with this right is considered to be lawful, proportionate and in response to a pressing social need.

13.4 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 1 to the first protocol of the ECHR or Article 8 (even if engaged).

13.5 An Integrated Impact Assessment, incorporating human rights assessment and equalities impact assessment, has been carried out in respect of the CPO. This concluded that any negative impact would be managed and mitigated through appropriate measures in the CPO process or compensation in terms of the statutory framework.

## 14 Unknown Owners

14.1 There are no unknown owners, but there is one owner whose address is unknown. Site notices will be placed at appropriate locations as part of the advertisement / notification process for the CPO.

## 15 Negotiations with landowners

15.1 The Council owns or controls most of the land required to deliver the Project.

15.2 As noted in section 8, the Council has instructed the District Valuer to negotiate with all landowners.

15.3 The Council will continue to use reasonable efforts to reach agreement with affected parties on a voluntary basis following service of the CPO.

## 16 Special Considerations

16.1 There are no additional special considerations beyond those identified in this section.

## 17 Conclusions

17.1 In conclusion:

- There is a need for the Project as demonstrated by the planning process for the Permissions 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 relevant transport, planning, policy at a national, regional and local level;
- The land and rights in 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.

## 18 List of Documents

18.1 A copy of the CPO and the Map are publicly available for inspection at Marischal College Customer Service Centre, Ground Floor, Marischal College, Broad Street, Aberdeen, AB10 1AB. The CPO and Map, together with the two documents noted below, may also be viewed online at: https://b999-shielhill-improvements.commonplace.is/

- The Aberdeen City Council (Shielhill Junction Improvements) Compulsory Purchase Order 2024 - Statement of Reasons and
- “Compulsory purchase in Scotland: Guide for property owners and occupiers” (2019), Available at:

  https://www.gov.scot/publications/compulsory-purchase-scotland-guide-property-owners-occupiers/