

READING BOROUGH COUNCIL
REPORT BY DIRECTOR OF ENVIRONMENT, CULTURE AND SPORT

TO:	POLICY COMMITTEE		
DATE:	15 July 2013	AGENDA ITEM:	16
TITLE:	READING THAMES RIVERSIDE - NEW PEDESTRIAN AND CYCLE BRIDGE AND CYCLEWAY		
LEAD COUNCILLOR:	TONY PAGE	AREA COVERED:	REGENERATION, TRANSPORT AND PLANNING
SERVICE:	HIGHWAYS & TRANSPORT	WARDS:	BOROUGHWIDE
LEAD OFFICERS:	CHRIS BROOKS ANTHONY BOLTON BRUCE TINDALL	TEL:	(0118) 9372602 (0118) 9372657 (0118) 9372594
JOB TITLE:	HEAD OF LEGAL AND DEMOCRATIC SERVICES HEAD OF TRANSPORT HEAD OF DEVELOPMENT	E MAIL:	chris.brooks@reading.gov.uk anthony.bolton@reading.gov.uk bruce.tindall@reading.gov.uk

1. EXECUTIVE SUMMARY

1.1 In respect of the Thames towing path and an area of the riverside adjacent to Fry's Island, Reading approval is sought to:

- 1.1.1 make a Compulsory Purchase Order(s) under Sections 239, 240, 250 and 260 of the Highways Act 1980 and Acquisition of Land Act 1981 to acquire all or part of the land identified edged red coloured pink and new rights in respect of the areas coloured blue on the map attached to this Report entitled "Map referred to in the Reading Borough Council (River Thames Reading Pedestrian / Cycle Bridge) Compulsory Purchase Order 2013" (the CPO Map) in combination with
- 1.1.2 seek approval from the Department for Transport to make a Bridge Scheme (the Bridge Scheme) under section 106(3) of the Highways Act 1980 to effect the construction of a new bridge for pedestrians and cyclists across the River Thames (as a navigable waterway) between the existing Caversham and Reading Bridges (the Pedestrian / Cycle Bridge);
- 1.1.3 make a Footpath Creation Order (the Footpath Creation Order) under section 26 of the Highways Act 1980;
- 1.1.4 under its general powers of improvement under S62 of the Highways Act 1980 make up and improve the Thames towing path and create a cycle track under s65 Highways Act 1980 within the new highway;
- 1.1.5 if the Secretary of State authorises the Council to do so, confirm any Compulsory Purchase Order(s) made;

- 1.1.6 utilise, where appropriate, either the General Vesting Declaration procedure under the Compulsory Purchase (Vesting Declarations) Act 1981 or the notice to treat procedure under Section 5 of the Compulsory Purchase Act 1965;
 - 1.1.7 give authority under Section 6(4) of the Acquisition of Land Act 1981 to dispense with individual service of notices in respect of areas of land where the Council is satisfied that it has not been possible following proper enquiry to establish the ownership of the land in question and for the service of notices in the manner set out in Section 6(4) of the Acquisition of Land Act 1981;
 - 1.1.8 take all steps to seek to acquire the necessary interests in land by agreement or utilising compulsory acquisition powers.
- 1.2 To consider the provisions of the Human Rights Act 1998 so far as they might be applicable in deciding whether or not to make the Compulsory Purchase Order and all other statutory powers that the Council seeks to exercise.

2. RECOMMENDATION

- 2.1.1 That having given consideration to all the provisions of this report Policy Committee resolves to delegate to the Head of Legal Services to:
- 2.1.2 make a Compulsory Purchase Order(s) under Sections 239, 240, 250 and 260 of the Highways Act 1980 and Acquisition of Land Act 1981 to acquire all or part of the land identified edged red coloured pink and new rights in respect of the areas coloured blue on the map attached to this Report entitled "Map referred to in the Reading Borough Council (River Thames Reading Pedestrian / Cycle Bridge) Compulsory Purchase Order 2013" (the CPO Map)
- 2.1.3 seek approval from the Department for Transport to make a Bridge Scheme (the Bridge Scheme) under section 106(3) of the Highways Act 1980 to effect the construction of a new bridge for pedestrians and cyclists across the River Thames (as a navigable waterway) between the existing Caversham and Reading Bridges (the Pedestrian / Cycle Bridge);
- 2.1.4 make a Footpath Creation Order (the Footpath Creation Order) under section 26 of the Highways Act 1980;
- 2.1.5 under its general powers of improvement under S62 of the Highways Act 1980 make up and improve the Thames towing path and create a cycle track under s65 Highways Act 1980 within the new highway;
- 2.1.6 if the Secretary of State authorises the Council to do so, confirm any Compulsory Purchase Order(s) made;
- 2.1.7 utilise, where appropriate, either the General Vesting Declaration procedure under the Compulsory Purchase (Vesting Declarations) Act 1981 or the notice to treat procedure under Section 5 of the Compulsory Purchase Act 1965;
- 2.1.8 give authority under Section 6(4) of the Acquisition of Land Act 1981 to

dispense with individual service of notices in respect of areas of land where the Council is satisfied that it has not been possible following proper enquiry to establish the ownership of the land in question and for the service of notices in the manner set out in Section 6(4) of the Acquisition of Land Act 1981;

2.1.9 take all steps to seek to acquire the necessary interests in land by agreement or utilising compulsory acquisition powers.

To consider the provisions of the Human Rights Act 1998 so far as they might be applicable in deciding whether or not to make the Compulsory Purchase Order and all other statutory powers that the Council seeks to exercise.

3 POLICY CONTEXT

3.1 The Policy context for the proposed works is contained in the summary of the planning position attached as **Appendix 1**.

4 THE PLANNING POSITION

4.1 The proposed works fall into three categories:

4.1.1 Works to construct the Pedestrian / Cycle Bridge

4.1.2 Works to improve the Thames towing path for use by pedestrians and cyclists, to include an on-ramp to the Pedestrian / Cycle Bridge

4.1.3 Works to improve the means of access to/from Vastern Road via Norman Place.

4.2 It is intended to improve the public means of access to access and egress from Vastern Road as described in more detail below. As noted below the permitted development rights exist for the highway authority to carry out works on land within the boundary of an existing highway which extends along Norman Place and Vastern Road.

Bridge Scheme under section 106(3) of the Highways Act 1980

4.3 The Council seeks approval from the Department for Transport to make a Bridge Scheme under section 106(3) of the Highways Act 1980. Such a scheme is required in addition to planning permission and CPO before the new bridge can be constructed over navigable waters. The River Thames is a navigable waterway. The Bridge Scheme is legally justified under the Highways Act 1980 and further justification for the whole Scheme is set out at 5. and 10.3.3. below.

4.4 To make the Bridge Scheme the Council will need to follow a process set out in Parts II and III of Schedule I of the Highways Act 1980. This process will involve preparing and submitting a draft Bridge Scheme to the Secretary of State for Transport (the SoS), placing notices in the London Gazette and local

newspapers, and notifying various authorities of the draft scheme. Interested parties may make representations to the Secretary of State for Transport. If there are objections to the Bridge Scheme received within the notice period (which must be a minimum of 6 weeks) that are not withdrawn, this will trigger a public inquiry under the Highways (Inquiries Procedure) Rules 1994.

- 4.5 The Inquiry for the Bridge Scheme could be held in conjunction with any inquiry for the CPO.
- 4.6 At the Inquiry the SoS would consider the scheme in detail and parties who had made representations within the notice period would be given a fair hearing. The Inquiry has the potential to result in the draft Bridge Scheme being delayed but this potential delay has been taken into consideration by the Council by allowing for a 12 month programme lag. The inquiry may result in the Bridge Scheme being confirmed by the SoS without modifications; being confirmed by the SoS with modifications; or there is a small risk of the SoS ordered the inquiry to be run again.

Footpath Creation Order under Schedule 6 of the Highways Act 1980

- 4.7 The Council also considers it necessary to make the Footpath Creation Order to facilitate the adoption of the Thames towing path as a publicly maintained highway. This will facilitate the Council using its permitted development rights to make up and improve the surface of that new highway, improve the cycleway along it and improve the existing connections with Norman Place and Vastern Road.
- 4.8 The procedure for making the Footpath Creation Order are contained in S26 and Schedule 6 Parts I and II of the Highways Act 1980, and the Public Path Orders Regulations 1993. As with the Bridge Scheme, a draft Footpath Creation Order is made, and there is a process of notification. In the case of the Footpath Creation Order, persons with an interest in the land in question must be notified of the Footpath Creation Order and given 28 days to respond. If there are no objections to the Footpath Creation Order, the Council may be confirmed as an unopposed order. If there are objections that are not withdrawn, a local inquiry may again be held, although this is within the discretion of the SoS, who may instead direct that a hearing be held for any person who has made an objection by an appointee of the SoS; or he may consider written representations. This process would only be required to the extent that relevant landowners have not dedicated the area as footpath or transferred the interest to the Council. Any dedication by landowners as a bridleway would allow cycle use in conjunction with pedestrian use, but the Council would then seek to restrict equestrian use using a traffic regulation order.
- 4.9 If an inquiry is held, the SoS should confirm, or refuse to confirm the order soon after the SoS has received the report of the inspector or other appointee who ran the inquiry. The Footpath Creation Order inquiry or hearing procedure is less formal and likely to be faster than the Bridge Scheme.
- 4.10 The Council will seek that any such inquiry if held be conjoined with any inquiry for the Bridge Scheme and the CPO itself.

- 4.11 The persons interested in the Footpath Creation Order (as well as the Bridge Scheme and CPO) are the landowners along the Thames towing path, being SSE Services PLC, Standard Life Assurance Ltd, LSBP Limited, Thames Court Reading Freehold Company LTD and Covea Insurance LTD. While there remains the possibility that the Footpath Creation Order may cause a delay to project timings it is not likely to be significant or affect the overall Scheme's chances of being consented.

Planning

- 4.12 The works required for the Pedestrian / Cycle Bridge will require planning permission under the Town and Country Planning Act 1990 and it is expected that an application for these works by the Council will be submitted in during August 2013. The planning application is currently envisaged to include all the works to be carried out for the Pedestrian / Cycle Bridge, the connecting ramps and works to Norman Place. All these works will be carried out within the area subject to the CPO.
- 4.13 As a highway authority the Council has the power under section 55(2)(b) of the Town and Country Planning Act 1990 to undertake works within the boundary of an existing highway without the need to secure planning permission subject to limitations. The Footpath Creation Order under section 26 of the Highways Act 1980 will designate the area of the Thames towing path shown on the CPO Map as a highway, which area will become maintainable at public expense (Plots 6, 7, 8 and 9). Once this is done the Council may exercise permitted development rights to improve this area under section 55(2)(b) of the 1990 Act.
- 4.14 Under the Highways Act 1980 "Improvement" includes widening and changing the levels of a road as well as the creation of private means of access if carried out by a highway authority and can include the construction of cycle tracks within or alongside the highway. It is anticipated that the works carried out under permitted development powers will also include works to widen Norman Place and to provide improved access for pedestrians and cyclists from Norman Place to the Thames towing path and along the section of the Thames towing path within the boundary of the land on the CPO Map. Whilst widening of the towing path into the river is possible using these powers there will still be consents required from the Environment Agency. This is dealt with in 4.21-4.28 below.
- 4.15 Land at Norman Place already falls within publicly adopted highway so the Council will likewise be able to widen and improve this area without applying for planning permission.
- 4.16 The works will be undertaken by the Council itself as highway authority.

Other potential impediments: Construction on public open space to north of scheme

- 4.17 At the northern side of the River Thames there is an area of land in the ownership of the Council, the title of which is unregistered. Parts of this land are in use by the public as open space and the Council has considered whether this may impact on the consenting or construction of the overall Scheme.

- 4.18 The Council's title to this land is demonstrated by two conveyances, dated 28 November 1914, between William Dalziel Mackenzie and The Mayor Alderman and Burgesses of the Borough of Reading; and 12 March 1916, between Joseph Charles Fidler (and other beneficiaries) and The Mayor Alderman and Burgesses of the Borough of Reading. There are no restrictions contained within these deeds which would limit the Council's ability to carry out the Scheme.
- 4.19 The Open Space Act 1906 and the Public Health Act 1875 both contain provisions relating to public open space. There are no restrictions on construction of these statutes which would limit the Council's ability to carry out the Scheme.
- 4.20 Whilst the Open Space Act 1906 requires that where a local authority acquired land under this Act, it is to be held and administered for enjoyment as public open space and for no other purpose, neither of the conveyances referred to in 4.14 transferred land under this Act. Whilst there are a number of rights of way reserved in the 1916 conveyance over roadways and public highways (existing and future), and there is a restriction to keep open for the use of the public the meadow land, there are no other restrictions. The meadow land referred to is at the opposite end of the area of park covered by this title to the proposed bridge and so will not be affected by the Pedestrian / Cycle Bridge in any case. No land is included within the order on the northern side of the river as it is within the Council's ownership.

Other necessary consents - river traffic, temporary road traffic order, and consents required from Environment Agency

- 4.21 Any works under, on, in, over or within 8m of the River Thames will require a Flood Drainage Consent from the Environment Agency. It is possible there maybe two consent requirements one for design and one for construction. The majority of all works associated with the bridge will therefore require this consent.
- 4.24 The Environment Agency also has a role as navigation authority in this area of the River Thames. Consent from the Environment Agency in respect of navigation will be part of the consent requirement identified above.. The Council will seek to negotiate with the Environment Agency to obtain this consent in parallel with the planning, CPO, Bridge Scheme and Footpath Creation Order.
- 4.25 Navigation will need to be temporarily restricted on the Thames during construction. The Council will seek to negotiate with the Environment Agency to obtain the cooperation of the EA to bring this about in a manner that does not unduly impact on the amenity of river users. This will be part of the consent process identified above.
- 4.26 In addition to the above the Environment Agency is also a Statutory Consultee in respect of Flood Risk, the associated approval resting with Reading Borough Council as the Local Authority.

- 4.27 In addition, traffic will need to be restricted on the existing towpath for a period during the construction works. The Council will seek to put a Temporary Road Traffic Order in place under the Road Traffic Temporary Restrictions Act 1991 to redirect pedestrian and cycle traffic around areas of construction which it may carry out as the traffic authority for the area.
- 4.28 These consents are not anticipated to be onerous to obtain and are not expected to materially delay the development of the Pedestrian / Cycle Bridge.

5 THE PROPOSAL - BACKGROUND

- 5.1 Land within the area of the CPO ("the Order Land") is shown edged red coloured pink and new rights over the area coloured blue on the CPO Map.
- 5.2 The Order Land includes land which is part of the river bed of the Thames. It is necessary to include this land in the CPO because of the assumption in law that the owner of land abutting a river also owns the river bed up to the medium line, in the absence of evidence to the contrary.
- 5.3 The Order Land is required to:
- 5.3.1 widen and carry out improving works to Norman Place;
 - 5.3.2 improve access from Norman Place and by extension from Vastern Road onto the River Thames towing path;
 - 5.3.3 improve the riverside and pedestrian and cycle path along the south bank of the River Thames within the Order Land, including widening the existing path and carrying out reinforcement works in the river in these locations, and
 - 5.3.4 construct the Pedestrian / Cycle Bridge and necessary ramps leading to the same between the existing Caversham and Reading bridges, crossing from the south bank of the Thames and connecting to the parkland at the north bank.
- 5.4 Land included in the Order which is not currently public highway includes land comprising the River Thames towing path on the south bank of the river; land required for widening Norman Place at the east and west sides of that road (being in the ownership of Covea Insurance Limited and LSBP Limited respectively); unknown ownership of the tow path and land forming the river bed of the River Thames. Footpath widening will take place in plots 2 and 5 with rights being required for construction on a temporary basis. The garages within the ownership of Covea Insurance will remain and the Council only seeks to acquire the freehold of part of the landscaped area to the rear.
- 5.5 The total area of land included in the Order is 12,900 square metres approximately, of which none is currently in the freehold ownership of Reading Borough Council albeit it has a rebuttable presumption of ownership of the northern half of the river bed as a riparian owner. Reading Borough Council has an interest as highway authority in Norman Place and the footpath leading

from Norman Place to the Thames towing path. Some 7,800 square metres approximately of land included in the Order is currently in private ownership. The ownership of the Thames towing path adjacent to SSE Services PLC's property is unknown.

- 5.6 Without securing all of the land in third party ownership by compulsory acquisition it will not be possible to deliver the Scheme within the project timetable. The Council will continue negotiations in parallel with the statutory procedures for CPO, the Bridge Scheme for the Pedestrian / Cycle Bridge and the Footpath Creation Order.
- 5.7 In the event that no objections are received to the making of the CPO, the Secretary of State has a discretion to allow an acquiring authority to confirm its own order and in the event this applies have authority is sought for the Council to do so.

6 THE PROPOSAL - THE CASE FOR THE COMPULSORY PURCHASE ORDER

- 6.1 Subject to the approval of the Secretary of State, the Council has the power under Section 239, 240, 250 and 260 of the Highways Act 1980 to compulsorily acquire land for the construction or improvement of a highway. The powers of acquisition in these sections are subject to distance limits of 220 yards from the middle of the highway or proposed highway. All of the land required for the Pedestrian / Cycle Bridge will be within the prescribed distances once the Bridge Scheme and Footpath Creation Order are made.
- 6.2 Under Section 250 of the Highways Act 1980 the Council can acquire new rights over land. These are being acquired in preference to outright acquisition. This avoids the need to acquire the freehold of land where rights are sufficient. The Council seeks rights to access land adjoining highway widening or widening of the footpath adjoining Norman Plate. It also seeks rights for the bridge to span the river than acquire the freehold. Under section 260 of the Highways Act restrictive covenants over land already in the Council's ownership will be overridden if included within the CPO.
- 6.3 The land included in Plots 2, 5, 6, 7, 8, 9, 10 and 11 as identified on the CPO Map is required permanently for the Scheme. Land identified as plots 1, 3 and 4 is to be acquired temporarily during construction of the highway works. Plots 12, 13, 15, 16 and 18 are required temporary for construction purposes only of the bridge. As the CPO process does not permit temporary acquisition the Council would not secure title to these plots but would return possession to the owners on completion of these Works. Whilst rights can be acquired for the bridge to span the river (plots 14 and 17) as others can then use the river and exercise navigation rights it is considered necessary to acquire the freehold of the land for the ramp and steps leading to the bridge as no one else will be able to exercise any rights over this area once construction is completed.
- 6.4 In promoting a compulsory purchase order acquiring authorities should have regard to government guidance. There are two circulars which are relevant to a CPO made under the Highways Act 1980. These are DfT Circular 2/97 and ODPM (as it was called) Circular 06/2004.

- 6.5 Circular 2/97 relates to specific process which must be followed when making a Highways Act CPO. This states that amongst other matters which are relevant to the Order Land that the planning position must be established as the Secretary of State would always wish to be sure that a scheme for which he was authorising the compulsory acquisition of land would go forward as proposed in the order. As set out in 4 above part of the Scheme benefits from permitted development rights as it is on land within and adjoining the boundary of the existing or proposed highway at Norman Place and on the River Thames towing path which it is proposed will be brought into public adoption, save as to the works for the Pedestrian / Cycle Bridge itself. A planning application is expected to be submitted in August 2013 and a decision is expected by the end of October 2013. All of the land is required for the Scheme. The power to acquire the land for working space is contained in section 240(2)(a) of the Highways Act 1980.

In light of the provisions in the Appendix on the planning position, namely that the scheme is in accordance with planning policy, there is no obvious reason why planning permission might be withheld.

- 6.6 The other more general guidance is in Circular 06/2004. This provides requirements on authorities promoting compulsory purchase. Matters which must be addressed are

6.6.1 Authorities should seek to acquire by negotiation where practicable. CPO is intended as a last resort in the event that attempts to acquire by agreement fail. A summary of the negotiations with third parties is contained in Section 7.

6.6.2 There must be a compelling case in the public interest - as to which see paragraph 6.6.

6.6.3 There must be a clear idea of how it intends to use the land and that the necessary resources are likely to be available to achieve that end within a reasonable timescale.

6.6.4 Full details for the funding of the scheme are required including timing - see section 14 below.

6.6.5 There must be a reasonable prospect of the scheme proceeding and be unlikely to be blocked by impediments to implementation.

- 6.7 Members should note that a compulsory purchase order can only be made if there is a compelling case in the public interest and that the purposes for the making of the order should sufficiently justify interfering with the human rights of those with an interest in the Order Land as to which this is dealt with below. On the basis of the assessment carried out by the Council it must consider that a compelling case exists before a decision is made. Officers have carried out this assessment and are of the view that as a result of the transport and sustainability benefits of the Scheme and the amenity benefits of connecting the Pedestrian and Cycle Bridge with the parkland to the north of the River Thames in this area there is a compelling case in the public interest for the making of the CPO and interfering with the human rights of those affected by the Scheme.

7 NEGOTIATION STRATEGY

7.1 Negotiations have been on going with the third parties involved and summaries of the current positions are set out below:

7.1.1 SSE Services PLC

A meeting has been held. SSE have seen outline proposals and responded positively and noted their willingness to work with the Council in developing the scheme. An update meeting is currently being planned.

7.1.2 Standard Life Assurance LTD

A meeting is currently being scheduled. As with all affected landowners Standard Life have returned a requisition form.

7.1.3 LSBP LTD

Liaison with Agents is in progress and a follow up meeting is being scheduled

7.1.4 Thames Court Reading Freehold Company LTD

Company Directors have attended the May public consultation event and correspondence with Agents has been exchanged. A meeting took place on Monday 1st July to discuss the issues raised.

7.1.5 Covea Insurance

Two meetings have been held resulting in the consideration of a number of options. Further details of a preferred option are currently being prepared to confirm a position. The owners are willingly working with Officers to identify a solution.

7.1.6 Thames Water

A meeting being arranged in connection with Standard Life Assurance

8. LAND IN UNKNOWN OWNERSHIP AND LAND SUBJECT TO THIRD PARTY RIGHTS

8.1 The purpose of this part of the report is to inform the Council of the procedure which the Council must follow to deal with unknown ownership on making the Compulsory Purchase Order for the Scheme and to obtain the necessary Council authority to do so.

8.2 The earlier part of this report recommends the making of a Compulsory Purchase Order for the Scheme.

8.3 The Council's solicitors have previously progressed the necessary investigative work to establish all those ownerships within the boundary of the proposed Compulsory Purchase Order. This is necessary because when serving notices in

relation to the Compulsory Purchase Order, the Council is required to send these to all persons owning an interest in the Site.

- 8.4 The Acquisition of Land Act 1981, Section 6(4), provides that if the Council is satisfied that diligent enquiry has been made and it is not practicable to ascertain the name or address of an owner, lessee or occupier on whom any document has to be served, the document may be served by addressing it to the "owner/lessee/tenant/occupier" and adding a description of the premises and delivering it to some person on the premises. If there is no person on the premises to whom it may be delivered, then the notice can be served by affixing a copy of it to some conspicuous part of the premises. In adopting this approach the Council must be satisfied that reasonable enquiries have been made to establish ownership.
- 8.5 The Council's solicitors have now completed their title investigations. The Council's solicitors have confirmed that on behalf of the Council they have made all reasonable enquiries to establish ownership, including the service of notices requiring owners/lessees/tenants and occupiers to give details of ownership; obtaining information from the Land Registry; checking with the Rating Department of the Council; approaching statutory undertakers and enquiring of the Highway Authority.
- 8.6 To proceed with the making of the Compulsory Purchase Order it is necessary for the Council to give authority to dispense with individual service of notice in respect of these areas of land mentioned in paragraph 9.1 above (which may include some land comprising part of the bed of the River Thames) and to authorise the service of notices in accordance with the provisions of Section 6(4).
- 8.7 The purpose of this paragraph is to deal with land subject to third party rights. As a result of changes to the compulsory purchase procedure following the introduction of the Planning and Compulsory Purchase Act 2004 all parties who have the benefit of rights, easements and covenants in land which is the subject of a compulsory purchase order must be served with notices. Diligent enquiry has been carried out but if there are any parties who have not been notified of the order who are within this category they may still be notified of the order by the posting of notices on site.

9. HUMAN RIGHTS ACT 1998 (HRA)

- 9.1 The Human Rights Act 1998 (HRA) came into force on 2 October 2000.
- 9.2 Provisions of the HRA which are relevant in relation to the CPO are:
 - 9.2.1 The European Convention on Human Rights (the Convention) is an international treaty signed under the auspices of the Council of Europe. Whilst the United Kingdom was instrumental in drafting the Convention it was never incorporated into United Kingdom law.
 - 9.2.2 The HRA still does not incorporate the Convention into United Kingdom law but what it does is to enable individuals to invoke Convention rights for certain purposes and for certain effects.

- 9.2.3 The main articles of the Convention which are of importance in circumstances where the Council is considering making a compulsory purchase order are Article 8 - the right to respect for private and family life and his/her home and Article 1 of Protocol 1 - the protection of property.
- 9.2.4 In making a CPO an acquiring authority must show that the acquisition is justified in the public interest.
- 9.3 Article 8 is clarified below.
- 9.3.1 Article 8(1) provides that everyone has the right to respect for his/her home but Article 8(2) allows the State to restrict the rights to respect for the home to the extent necessary in a democratic society and for certain listed public interest purposes eg. public safety, economic well being, protection of health and protection of the rights of others.
- 9.3.2 When considering Article 8 in the context of a compulsory purchase order the Council needs to ask the following questions:
- Firstly, does a right protected by article 8 apply - to which the answer is "yes".
 - Secondly, has an interference with that right taken place or will take place as a result of the compulsory purchase being made - to which the answer is again "yes".
- 9.3.3 The answers to these two questions being in the affirmative confirms that Article 8 applies and it is therefore necessary to consider the possible justifications for the interference under Article 8(2). There are 3 questions for the Council to consider:
- Firstly, is the interference in accordance with the law? The answer is "yes", there being a legal basis for making the CPO under Sections 239, 250 and 260 of the Highways Act 1980.
 - Secondly, does the interference pursue a legitimate aim? The justification for the CPO is that it seeks to achieve a particular purpose in the public interest, namely, the road improvement and sustainable transport Scheme set in detail in 5 above.
 - Thirdly, is the interference necessary in a democratic society? Here the Council must make a balancing judgement between the public interest and the rights of the individual - the CPO must be both necessary and proportionate.
- 9.4 Article 1 of Protocol 1 provides that:
- 9.4.1 Every natural or legal person is entitled to the peaceful enjoyment of his possessions.
- 9.4.2 No one shall be deprived of those possessions except in the public interest and subject to the conditions provided for by law

9.4.3 However, the above rules shall not prevent a State enforcing such laws as it deems necessary to control the use of property in accordance with the general interest.

9.4.4 The Council must decide in relation to Article 1 whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. The right to compensation is an important factor in considering the balance between the two.

9.5 Recommendations Relating to the Human Rights Act

9.5.1 With regard to Article 8 it is considered that in balancing the rights of the individuals who are affected by the CPO against the benefit to the transport infrastructure of proceeding with the CPO, the making of the CPO and the interference with the individuals rights is justified in the interests of the community in order to effect the improvements.

9.5.2 With regard to Article 1 Protocol 1, it is considered that the interference with the individual's property is justified by the advantages accruing to the public by proceeding with the works particularly taking into account the fact that there is a legal right to compensation for the property taken and rights extinguished under the CPO.

10. CONTRIBUTION TO STRATEGIC AIMS

10.1 To promote equality, social inclusion and a safe and healthy environment for all. The Pedestrian / Cycle Bridge is expected to contribute to the Council's Sustainable Community Strategy and Core Strategy

11. COMMUNITY ENGAGEMENT AND INFORMATION

11.1 The Council has completed an extensive public awareness exercise on the Pedestrian / Cycle Bridge. A public consultation event was held on 2 May 2013 at the Old Town Hall in Belgrave Street allowing people to find out more about the proposals.

In addition, consultation leaflets have been distributed to local residents in the vicinity of the proposals. An online consultation was run concurrently with the live consultation (<http://www.reading.gov.uk/council/consultations>) and ended on 28 May 2013.

11.2 Local public exhibitions and associated information will continue to be provided to all stakeholders throughout the project.

12. LEGAL IMPLICATIONS/EQUALITY ACT 2010

12.1 Please see main body of report.

12.2 In addition to the Human Rights Act 1998 the Council is required to comply with the Equalities Act 2010. Section 149 of the Equalities Act 2010 requires the Council to have due regard to the need to:-

12.2.1 eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

12.2.2 advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

12.2.3 foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

12.3 The Council has carried out a equality impact assessment scoping exercise, and considers that the proposals do not have a direct impact on any groups with protected characteristics.

13. FINANCIAL IMPLICATIONS

13.1 When the CPO is made and implemented the Council will be liable to meet statutory compensation claims and has the necessary funding in place to cover these costs.

13.2 The pedestrian cycle bridge formed part of a package of projects submitted as part of a business case application to the central governments Local Sustainable Transport Fund. The successful grant award resulting from this submission, inclusive of an element of Local Contribution is the means by which the new pedestrian / cycle bridge is being funded. The LSTF Grant is time limited and must be spent by March 31st 2015.

14. BACKGROUND PAPERS

14.1 See main body of report.

**APPENDIX I
PLANNING STATEMENT**

This document details the relevant planning policy justification for the development of a new pedestrian/cycle bridge across the River Thames in Reading.

National Planning Policy Framework

The National Planning Policy Framework (NPPF) sets out government planning policies and how they should be applied; one of its main aims is to ensure sustainable development.

In the National Planning Policy Framework, Paragraph 14 states that:

“At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking’.

For plan-making this means that:

- Local planning authorities should positively seek opportunities to meet the development needs of their area;
- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

For decision-taking this means:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted”.

Paragraph 15 supports this: “Policies in Local Plans should follow the approach of the presumption in favour of sustainable development so that it is clear that development which is sustainable can be approved without delay. All plans should be based upon and reflect the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally”.

As the NPPF was published after adoption of both the Reading Core Strategy and Reading Central Area Action Plan, the above guidance takes precedence where the presumption in favour of sustainable development is not explicit in these documents.

NPPF paragraph 17 emphasises the importance of the overarching role that the planning system should play by providing “a set of core land-use planning principles [which] should underpin both plan-making and decision-taking”. These 12 principles include “actively managing patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable”.

Regarding the promotion of sustainable transport, the NPPF notes at paragraph 29 that “transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives..... The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel’. The government recognises that the maximisation of sustainable transport solutions will vary from urban to rural areas, with different specific policies being necessary in different communities.

Paragraph 35, considers how plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. It advocates that “developments should be located and designed where practical to:

-give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
- create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians...
- consider the needs of people with disabilities by all modes of transport”.

It is therefore clear that the NPPF strongly supports sustainable development and more specifically, sustainable modes of transport in line with its core planning principles. The proposed bridge would do exactly this; the bridge is a sustainable development which is required to meet transport demands in crossing the river. The bridge would also promote and encourage people to use sustainable transport modes by providing a solution which removes the current conflict and safety concerns between traffic and pedestrians/cyclists. In addition it forms part of wider sustainable travel proposals by Reading Borough Council to improve access across Christchurch Meadows and along the south bank towpath which connect to the bridge, and with the longer term aim of providing a direct route from the bridge straight to Reading Station and through to the town centre.

Local Development Plan

The principle of providing a new pedestrian/cycle bridge across the River Thames is imbedded in the Reading Borough Development Plan, set out below. Whilst these local planning policy documents pre-date the NPPF, they nevertheless accord with the presumption in favour of sustainable development and encouraging more sustainable modes of transport.

1) Reading Local Transport Plan 2 (LTP2) 2006-2011

The Reading LTP sets out objectives, policies and strategies for improving transport in the area and acts as a bidding mechanism to central Government for funding provision to implement measures and schemes.

The Reading LTP2 seeks to address the lack of sufficient capacity at crossings over the Thames (identified in the North Area action study and LTP monitoring and consultation process); currently there are two crossings which fail to meet vehicle, pedestrian and cycling demand.

Reading LTP2 indicates five new or improved pedestrian cycle routes across the Thames in Central Reading. Various placements of the new bridge are considered, but it is suggested that bridge extends from Caversham Lock in the east to Caversham Bridge in the west.

It also proposes that North South pedestrian and cycle routes are strengthened across the central area, this designated area coincides with the new proposed bridge alignment.

The footway/cycleway bridge also forms part of the Reading Borough Council Cycling Strategy.

2) Core Strategy, 2008

The Core Strategy indicates Major Development Areas to the south of the river as well as designating strategic open space North of the River and at Fry's Island.

The document outlines a number of 'Core Objectives', which seek to:

- 'Ensure new development is accessible and sustainable';
- 'Maintain and enhance the historic, built and natural environment of the Borough through investment and high quality design, and;
- 'Improve and develop excellent transport systems to improve accessibility within Reading and for the wider area by sustainable modes of transport.'

Linking with Reading Station, the Core Strategy identifies 8 core infrastructure projects which include 'measures to improve cross Thames travel, which may include a bridge' to promote areas around the station, & 'provide opportunities to establish links across the current barriers of the railway and Vastern Road and create new public spaces that will connect the centre with the environment of the River Thames.

Measures taken to improve cross Thames travel – including a bridge are proposed to be developed with adjoining authorities to provide alternatives for North-South movement across the river.

3) Reading Central Area Action Plan (RCAAP), 2009

The RCAAP forms part of Reading's Local Development Framework, its role is to establish a planning framework for Readings central Area, as change is needed.

The entire footbridge study area sits within the Central Reading Area, including Christchurch Meadow to the north of the Thames. Christchurch Meadow is designated an Important Area of Open Space (RC14a) and contains two cycle routes, one indicated travelling east-west along the northern river bank and the other north-south from Reading Bridge towards Caversham. In addition, the National Cycle Network Route 5 runs through Caversham and over Caversham Bridge, before travelling along the southern bank of the River Thames on the eastern side of Reading Bridge.

Policy RC1 of the plan sets out three relevant objectives:

- Help facilitate greater pedestrian and cycle permeability, particularly on the key movement corridors. North-south links through the centre and across the railway line, IDR and River Thames centred on the new station are of particular importance;
- Provide developments that front onto and provide visual interest to existing and future pedestrian routes and open spaces;
- Provide additional areas of open space where possible, including a direct green link between the station and the River Thames.

The Plan includes a Spatial and Design Strategy of the Centre of Reading (Figure 2) indicating a 'Key Movement Corridor, aligned north south and travelling through the footbridge study area and across Christchurch Meadow. Section 5.24 of the RCAAP addresses improved connections and breaking down major barriers. It states that new or

improved crossings for pedestrians and cyclists will be required over the IDR, the railway and the River Thames.

Improving connections and breaking down barriers is, as the Plan states, particularly critical in the north-south direction, which is key to the overall spatial strategy.

4) Reading Station Area Framework (RSAF), 2010

Reading Borough Council has prepared a Supplementary Planning Document for the Station Area setting out principles and guidelines for how development around the station should take shape, focusing particularly on the area to the north. The Reading Station Area Framework was adopted on 1 December 2010. The Framework supplements the Reading Central Area Action Plan.

The Framework describes a series of public realm priorities including a 'riverside path and spine'. The spine is an evolution of the north-south link described in the RCAAP. Figure 3 illustrates a proposed 'pedestrian grid' of paths connecting to the new bridge across the Thames.

Chapter eight includes a 'Framework structure' diagram, which indicates a 'Major path/pedestrian link' travelling from the town centre to and across the river and connecting to a waterside footpath on the south side of the Thames. The diagram at figure 8.3 indicates the position of the new foot and cycle bridge across the river Thames, opposite the Scottish and Southern Energy (SSE) site. The bridge is described as; 'a key element of the north-south spine'. The new bridge is intended to improve access to open space along the riverside and links between Central Reading and Caversham.

The Framework builds upon the principles of the RBC Cycling Strategy, which seeks to improve cycle links to the station and interchange and to improve cycle crossings of and travel on the IDR. Figure 11.11 shows the existing cycle network along with proposed routes within redevelopment sites. This shows a proposed new route from the Station, across new crossings on Vastern Road, through the SSE site and across the Thames.

5) Reading Local transport Plan 3 (LTP3), 2011

An LTP contains objectives, policies and schemes intended to improve transport in an area, contributing to wider social, economic and environmental benefits.

Reading LTP states that the River Thames, and the location of the two river crossings, results in a lack of connectivity between the northern area and central Reading, including the Railway Station. The river crossings also carry high volumes of traffic – Caversham Bridge has a total of 4 lanes of traffic, whilst Reading Bridge has a total of 3 lanes of traffic. These high volumes of traffic dominate the environment, potentially making these routes less attractive for pedestrians and cyclists, particularly in the peak periods.

The challenge is to improve connectivity over the River Thames and the railway, by providing more crossing points such as the planned pedestrian and cycling bridge and improving the journey experience on existing crossing points.

Conclusion

The NPPF is clear in its presumption in favour of sustainable development and encouraging sustainable modes of transport. It is also clear in stating that local authorities should be positively seeking opportunities to meet the development needs of their area; a need has been identified to improve crossing of the River Thames, particularly for pedestrians and

LSTF – PEDESTRIAN/CYCLE BRIDGE



cyclists. A solution to meet this need, by providing a new pedestrian/cycle bridge, has been adopted in Local Planning policy documents. The NPPF states that decision-takers should approve development proposals that accord with the development plan, which is the case for the proposed bridge.

