

Better Public Transport: Cambourne to Cambridge Project

To: Council

Meeting Date: 21 March 2023

From: Chief Executive, Greater Cambridge Partnership

Purpose: To consider the Greater Cambridge Partnership's (**GCP**) Cambourne to Cambridge (**C2C**) Transport and Works Act Order (**C2C Order**) submission for the creation of a new, or significantly improved public transport route between Cambourne and Cambridge (**C2C Scheme**) including:

- A new high quality busway.
- Bus priority improvements.
- A new Park and Ride.
- New high-quality cycling and walking facilities making use of the emergency and maintenance access track required for the new busway.

Recommendation: The Full Council is asked to:

- (a) Note the report, and the likely timescales for the formal consent process; and
- (b) Agree to:
 - (i) Make an application under the provisions of section 6 of the Transport and Works Act 1992 for an Order authorising the construction and operation of a guided transport system from Cambourne to Cambridge;
 - (ii) Seek a direction from the Secretary of State under Section 90(2A) of the Town and Country Planning Act 1990 that planning permission be deemed to be granted for the development provided for in the proposed C2C Order;
 - (iii) Authorise the GCP Executive Board:
 - (a) To progress negotiations with any owners of interests in the affected land and other persons affected by the scheme and to make necessary

arrangements to acquire land or rights within the proposed C2C Order, whether by agreement or through the exercise of powers contained in the C2C Order;

- (b) To progress negotiations with any affected parties or objectors to the C2C Order with the aim of avoiding, or securing the withdrawal of, any objections to the TWAO; and
- (c) To promote the C2C Order through, and participation in, any public local inquiry or other processes and procedures arising or resulting from the submission of the application for the Transport and Works Act Order (TWAO);

(iv) The delegation of powers to the GCP Executive Board to:

- (a) Prepare the necessary documents and any other evidence deemed appropriate to support the Transport and Works Act application;
- (b) Undertake further design development work on the C2C Scheme and progress the ongoing statutory process, including further refinements to the C2C Order prior to submitting the Transport and Works Act order application and application for deemed planning permission; and
- (c) Deliver the C2C Scheme to practical completion subject to the C2C Order being made and deemed planning permission granted and to the approval of a Full Business Case in line with any existing agreements and in compliance with the MoU between GCP and Cambridgeshire County Council (CCC) in accordance with internal governance requirements and procurement best practice and in consultation with the Council's Section 151 Officer where appropriate; and

- (v) The delegation of powers to the Council's Section 151 Officer to negotiate, agree, enter into, execute and serve (where appropriate) all relevant legal agreements, notices and other documentation necessary to facilitate and underpin the C2C Order including provisions to protect the apparatus of statutory authorities which may lead to ongoing liabilities, and to submit the Transport and Works Act Order application, and the application that a direction be given that planning permission be deemed to be granted together with all supporting documents, and to prepare such further documents as may be required to support those applications, save that the C2C Order application will not be made until the satisfactory completion of agreements with the landowners of three development sites, namely Cambourne West, Bourn Airfield and West Cambridge as approved by the Section 151 Officer.

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1. Background

1.1 Purpose of the Report

- 1.1.1 The purpose of this report is to inform a decision by the County Council to make a resolution under the provisions of section 239 of the Local Government Act 1972 (which applies in this case by virtue of section 20 of the Transport and Works Act 1992) to submit an application for the C2C Order to the Secretary of State for Transport under the Transport and Works Act 1992, accompanied by a request for a Planning Direction pursuant to S90(2A) of the Town and Country Planning Act 1990 and to approve delegations from CCC to the GCP Executive Board to progress the C2C Scheme through the statutory process.
- 1.1.2 If authorised, the resulting C2C Order and deemed planning permission will together provide the relevant powers and planning consent for the construction, maintenance and operation of the C2C Scheme.
- 1.1.3 Full details in relation to the strategic need for investment in the C2C Scheme, together with financial, commercial and management implications as well as investigation of alternative schemes, can be found in the Outline Business Case (OBC) at **Appendix 1**. The OBC has also been subject to an independent audit approved by the GCP Executive Board on 1 July 2021 (also at Appendix 1) which recommended that the OBC was valid and the C2C Scheme should continue to progress taking into account the impact of Covid-19, the increasing importance of climate change, the Government's new bus policy, East-West Rail and the withdrawal of the CAM Scheme promoted by the Cambridgeshire and Peterborough Combined Authority's (**CPCA**) previous mayor. These factors have been taken into account in the C2C Scheme.
- 1.1.4 Formal application is now proposed to be made to the Secretary of State for Transport for the C2C Order under the Transport and Works Act 1992 to construct and operate the C2C Scheme. This will also provide for powers of compulsory acquisition for the purposes of the C2C Scheme and include protective provisions for specified bodies.
- 1.1.5 A description of the proposed development comprising the C2C Scheme is provided in section 3 below and a plan showing the proposed alignment of the C2C Scheme is shown at **Appendix 2**.
- 1.1.6 By virtue of Section 20 of the Transport and Works Act 1992 CCC may apply for a Transport and Works Act Order (**TWAO**) but the power to do so is subject to the same conditions as apply to a Local Authority promoting bills in Parliament.
- 1.1.7 In this instance, CCC must comply with the conditions set out in section 239 of the Local Government Act 1972.

1.1.8 Section 239 provides that where a Local Authority is satisfied that it is expedient to promote a Bill (and this applies to TWAOs), it must pass a resolution to do so which then needs to be confirmed at a further meeting of the authority after the Bill is deposited (or in the case of a TWAO), the application made.

1.1.9 Such a resolution must be:

- (a) preceded by not less than 30 clear days' notice, given by advertisement in one or more local newspapers and by the ordinary notices required to be given for convening a meeting of the authority; and
- (b) passed by a clear majority of the whole number of the members of the authority (i.e. not a majority of those present but a majority of all members).

1.1.10 Notice was given to the public of a resolution in accordance with section 239 of the Local Government Act 1972 in the Cambridge News on 17 February] 2023.

1.2 The City Deal

1.2.1 The Greater Cambridge City Deal was signed on 19 June 2014 on behalf of all five local partners comprising GCP (CCC, Cambridge City Council (**City Council**), South Cambridgeshire District Council (**SCDC**), the Greater Cambridge Greater Peterborough Enterprise Partnership (the Business Board) and the University of Cambridge) and the Government. The Deal was underpinned by a commitment to deliver transformative economic benefits through investment in infrastructure and through a collaborative governance framework.

1.2.2 An effective and efficient governance structure is recognised in the deal document as key to the delivery of the infrastructure programme and to planning effectively for future growth. The governance framework required some delegated authorities in order to fulfil its mandate, which was subject to a decision by Full Council.

1.2.3 A series of approvals and delegations by Full Council followed the formation of the Greater Cambridge City Deal, including agreement to delegate certain functions to the Executive Board of GCP as the decision-making body for the Greater Cambridge City Deal, these included delegated responsibility:

- (a) for making decisions regarding Traffic Regulation Orders for City Deal schemes;
- (b) for making decisions around and exercising Compulsory Purchase Order powers for City Deal schemes;
- (c) for making decisions around Side Roads Orders for City Deal schemes; and

(d) to promote TWAOs for City Deal schemes.

1.2.4 The Greater Cambridge City Deal was also empowered to develop a programme of works, approve projects, including the allocation of project funding, and approve plans and strategies necessary or incidental to the implementation of the City Deal agreement.

1.2.5 The City Deal has subsequently outlined its vision as:

- a. Securing the continued economic success of the area;
- b. Significant improvements to air quality, supporting a healthier population;
- c. Reducing carbon emissions in line with the partners' zero carbon commitments;
- d. Helping to address social inequalities where poor provision of transport is a contributing factor; and
- e. Wellbeing and productivity benefits from improving people's journeys to and from employment.

1.2.6 The City Deal has identified four major corridor schemes for investment in high quality public transport of which Cambourne to Cambridge is one. These schemes help to ensure access to major growth sites for housing and employment, thereby enabling delivery of the Local Plans for Greater Cambridge. In May 2020, the programme was subject to a routine Gateway Review by central Government which was successfully passed and which commented on the 'significant success and progress' the partnership had made.

1.3 The Cambourne to Cambridge Scheme

1.3.1 The C2C Scheme is one of the four main corridor schemes developed by GCP under the City Deal. It comprises a proposed new public transport route linking Cambourne and Cambridge. It will include a dedicated busway serving communities in Cambourne and the proposed Bourn Airfield development, as well as in Hardwick, Coton and the West Cambridge campus. Running parallel to the busway there will be an emergency access and maintenance track that would also provide an Active Travel Path (ATP) for pedestrians/cyclists and equestrians. The ATP would generally be separated from the busway by a verge or a swale providing drainage and ensuring the safety of ATP users.

1.3.2 The scheme has been developed over the last eight years, and through four public consultation exercises. A range of options to the north and south of the existing corridor, and on-line, have been considered in line with Government guidance.

- 1.3.3 Travelling west to east, over the first 2.3km of the C2C Scheme, the alignment passes through current and planned urban development, first through Upper Cambourne and then into Bourn airfield, which will be built out over the next ten to twenty years.
- 1.3.4 Leaving the airfield site, for the next 1.6km C2C Scheme aligns within an existing road corridor, passing alongside and south of the A428, through grassland and young woodland planted on the materials deposited following construction of the road. This continues as far as the Scotland Road junction, where the travel hub will be located. The travel hub will occupy 12ha and will displace farmed (currently arable) land.
- 1.3.5 The C2C Scheme continues eastwards along St Neots Road on the north edge of the village of Hardwick. Over this 1.8km length, the route sits within the existing road alignment. It passes by mostly residential uses along the south side of the road, as well as a few commercial premises. Open land and tree planting to its north separates St Neots Road from the A428 to its north.
- 1.3.6 Just west of Long Road the route diverges south from St Neots Road, crossing farmland to the north of the built part of the village of Coton. This open countryside through which the route passes sits north of the built part of Coton and south of the houses along the ridge marked by Madingley Road.. East of Cambridge Road the route passes through an orchard and regenerating scrub south of a garden centre and rises to cross the M11 on a new bridge.
- 1.3.7 The route bisects the planted east side of the M11 and then enters the urban fringe of Cambridge, passing along Charles Babbage Road, to the north and south of which are the educational and commercial uses and sports facilities of Cambridge University's West Cambridge development.
- 1.3.8 East of Philippa Fawcett Drive the route turns south, passing alongside a campus road before crossing the West Cambridge Canal and bearing east then south and then east across open arable land before crossing the Bin Brook and re-entering the urban fringe of the City, passing along an existing track between sports pitches to the south and residential and university properties to the north. The route then joins the existing public highway on Grange Road and vehicles would proceed on-road to the City Centre and to wider destinations such as the Biomedical Campus.

1.4 Outcomes

- 1.4.1 The Outcomes of the proposals are discussed in detail in the OBC (Appendix 1) and the Environmental Statement (Appendix 10). In summary the OBC follows the requirements of the Green Book and Department for Transport (DfT) guidance and demonstrates the benefits of delivery of the C2C Scheme whilst the Environmental

Statement sets out the impacts of it and the mitigation required to offset any negative impacts.

1.4.2 Whilst the Benefit Cost Ratio based purely on conventional transport economics is relatively low, the scheme has a very strong Strategic Case and achieves significant Wider Economic Impacts as a result of its role in unlocking development potential as envisaged by the City Deal.

1.4.3 If the Council accepts the recommendations of this paper then both documents will be submitted to DfT for further scrutiny and likely debate through Public Inquiry.

1.5 Equality And Human Rights Implications

1.5.1 Section 149(1) of the Equality Act 2010 provides that in the exercise of their functions Cambridgeshire County Council (CCC) must have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share.

1.5.2 In accordance with rule 12(8) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (**the Rules**) an applicant for a TWAO must compile a Book of Reference containing the names of all those who were, at the beginning of a period of 28 days ending on the date of the application, owners, lessees, tenants (whatever the tenancy period) or occupiers of land which it is proposed will be subject to, compulsory acquisition, rights to use land, or rights to carry out protective works to buildings. The Book of Reference must also contain the names of all persons entitled to enjoy easements and other private rights over land which it is proposed to extinguish and the names of any others whom the Applicant would be required to give a notice to treat if proceeding under section 5(1) of the Compulsory Purchase Act 1965.

1.5.3 A Book of Reference is in the process of being compiled by the GCP but it is not yet at an adequate stage of completion to be appended to this report. However, The Executive Board of GCP has delegated authority to promote the C2C Order (with further delegation sought in this report to finalise and submit the application) and in this respect it is able to confirm to CCC as the Applicant that it has and will continue to carry out diligent inquiry, as set out in the Rules and the Guidance on Compulsory purchase process and The Crichel Down Rules 2018

to identify all the persons with an interest in the plots shown on the draft Land and Works Plans (**Appendix 5**), persons with a potential claim for compensation as a result of the C2C Scheme, and a number of other potential parties and statutory designations. These persons have been and will continue to be consulted pursuant to Rules 13, 14 and 16 of the Rules and as shown in the emerging Book of Reference. At this stage therefore, GCP is able to confirm to CCC as Acquiring Authority that it has and will continue to consider the rights of those listed in the emerging Book of Reference. GCP also undertakes to CCC that it will continue to consider the rights of those to be listed in the Book of Reference and assures CCC that an application for the C2C Order will only be made if it decides that interference with their rights, in particular those under Article 8 of the European Convention on Human Rights (ECHR), is proportionate and necessary. Moreover, those affected will be adequately compensated for any infringement of their rights.

- 1.5.4 The Human Rights Act 1998 incorporated into domestic law the provision of the ECHR. The articles of particular relevance are:
- (a) Article 1 of The First Protocol – protects the rights to peaceful enjoyment of possessions. No one can be deprived of their possessions except in the public interest.
 - (b) Article 6 – entitles those affected by compulsory powers to a fair and public hearing.
 - (c) Article 8 – protects the right of the individual to respect for his private and family life, his home and his correspondence. Interference with this right can be justified if it is in accordance with law and is necessary in the interests of, among other things, national security, public safety or the economic wellbeing of the country.
- 1.5.5 Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with rights protected by the ECHR.
- 1.5.6 Paragraphs 2 and 12 of the Guidance on Compulsory purchase process and The Crichel Down Rules 2018 sets out how applicants should take into account Human Rights:

“The Secretary of State must ultimately be persuaded that the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. In particular, regard must be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of acquisition of a dwelling, Article 8 of the Convention.”

1.5.7 The draft C2C Order, if made, may infringe the human rights of persons with an interest in land. This infringement is authorised by law provided that:

- (a) There is a compelling case in the public interest for the compulsory acquisition powers included within the C2C Order, and that proper procedures are followed.
- (b) Any interference with a human right is proportionate and otherwise justified.

1.6 Compliance with the ECHR

1.6.1 The Executive Board of GCP confirms to CCC as applicant that it recognises that the C2C Scheme may have an impact on individuals but considers that the significant public benefits that will arise from the C2C Scheme, as set out in this report outweigh any harm to those individuals. The draft C2C Order strikes a fair balance between the public interest in seeing the C2C Scheme proceed (which is unlikely to happen in the absence of the C2C Order) and the private rights which will be affected by the making of the order.

1.6.2 In relation to both Article 1 (of the First Protocol) and Article 8, the compelling case in the public interest for the compulsory acquisition powers included within the draft C2C Order has been demonstrated in this report and in the OBC (**Appendix 1**). The Land included over which compulsory acquisition powers are sought as set out in the C2C Order is the minimum necessary to ensure the delivery of the C2C Scheme. The C2C Scheme has been designed to minimise harm whilst achieving its publicly stated objectives. In this respect the interference with human rights is both proportionate and justified.

1.6.3 In relation to Article 6 the Executive Board of GCP confirms to CCC as applicant that it is content that recommended procedures have been followed for both the consultation on the C2C Scheme and for the determination of the compulsory acquisition powers included in the draft C2C Order. Throughout the development of the C2C Scheme, the Executive Board of GCP confirms to CCC as applicant that it has given persons with an interest in the land a full opportunity to comment on the proposals, both in a statutory and non-statutory capacity, and that it has endeavoured to engage with land interests. The Executive Board of GCP has had regard to land interest feedback in both the initial design of the scheme and in iterative design changes throughout the life of the C2C Scheme. Examples of design changes are provided within the Consultation Report (Appendix 12).

1.6.4 Furthermore, any individuals affected by the draft C2C Order may submit representations by way of an objection to the application and if objections are made by owners, lessees, tenants, or occupiers of land which is to be acquired (or is person falling within section 12(2A) of

the Acquisition of Land Act 1981) and not withdrawn, a public inquiry or hearing will be held at which objectors will be heard.

- 1.6.5 If the C2C Order is made, a person aggrieved may challenge the C2C Order by making an application to the High Court if they consider that the grounds for doing so are made out pursuant to section 22 Transport and Works Act 1992 .

1.7 Consideration of duties under the Equality Act 2010

- 1.7.1 The Executive Board of GCP using its delegated authority confirms to CCC as applicant that it has complied with its duties under section 149 of the Equality Act 2010 and has had due regard to the need to (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by or under the Equality Act 2010; (ii) advance equality of opportunity between persons who share a protected characteristic and persons who do not share it; and (iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 1.7.2 An Equality Impact Assessment (EqIA) (**Appendix 13**) has been carried out. The EqIA describes the process and results of a study to determine the impact of the C2C Scheme on a variety of demographic and protected characteristic groups identified in the surrounding area.

- 1.7.3 The EqIA concludes that that low level negative impacts may be experienced during construction for young people and their carers and for disabled people due to construction activities and disruption. However, during operation the C2C Scheme is likely to result in high level positive impacts for young and elderly people, medium level positive impacts for disabled users and low to high level positive impacts for all genders due to improved connectivity. Further opportunities were identified to advance equality, foster good relations and prevent discrimination in the conclusions to the EqIA.

- 1.7.4 This degree of impact and the scope for building mitigation into the C2C Scheme leads to the conclusion that there is no impediment to the Scheme and monitoring will be ongoing to ensure that remains the case.

1.8 Equality Conclusions

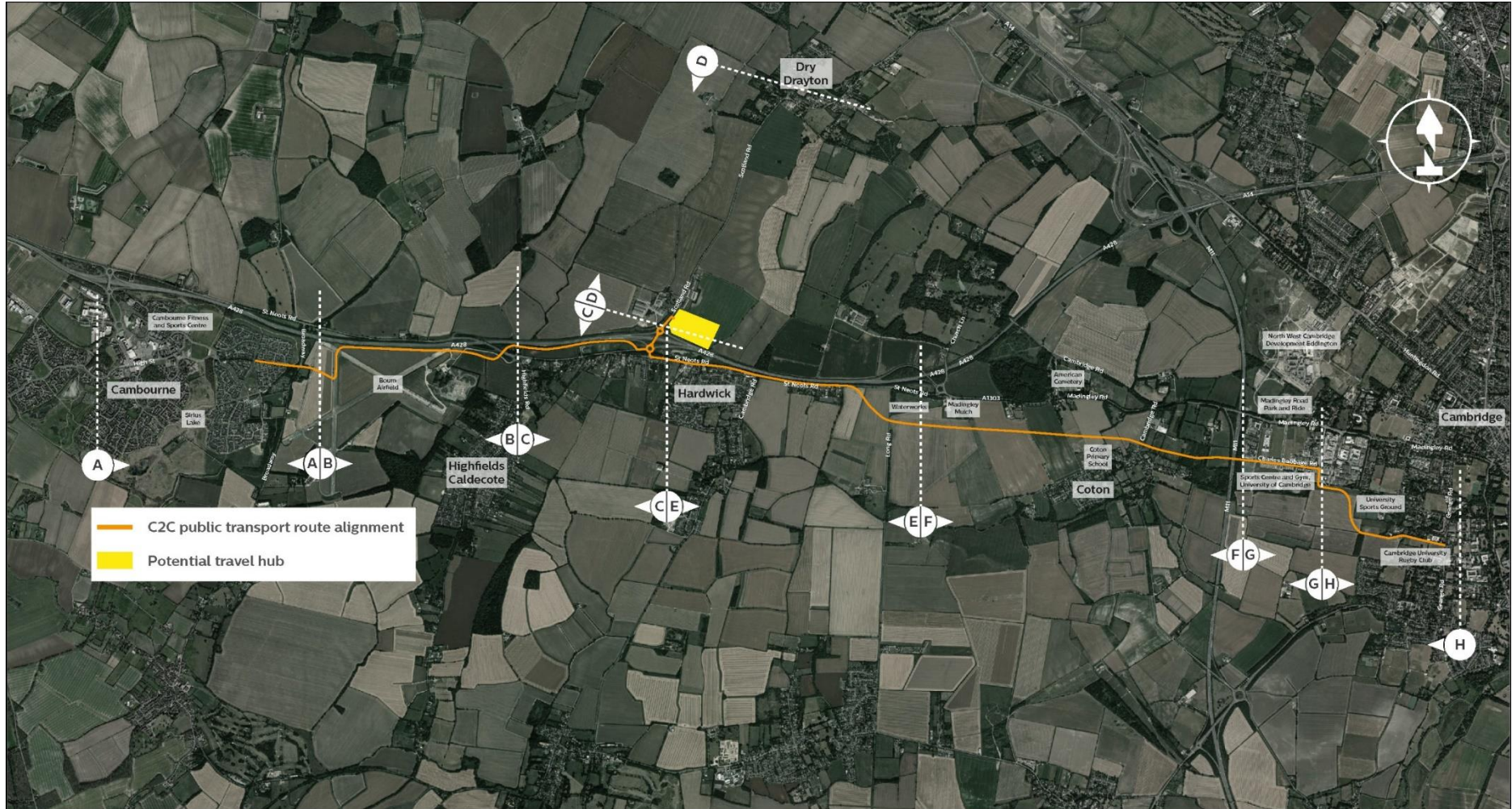
- 1.8.1 For the reasons set out above, and taking into account the delegations sought and the assurances by GCP, the Applicant considers that any infringement of the ECHR rights of those whose interests in the land might be affected by the exercise of powers of compulsory acquisition would, at the stage of submission of an application for the C2C Order, be proportionate and legitimate, would be in the public interest and would be in accordance with the law. .

2. Main Issues

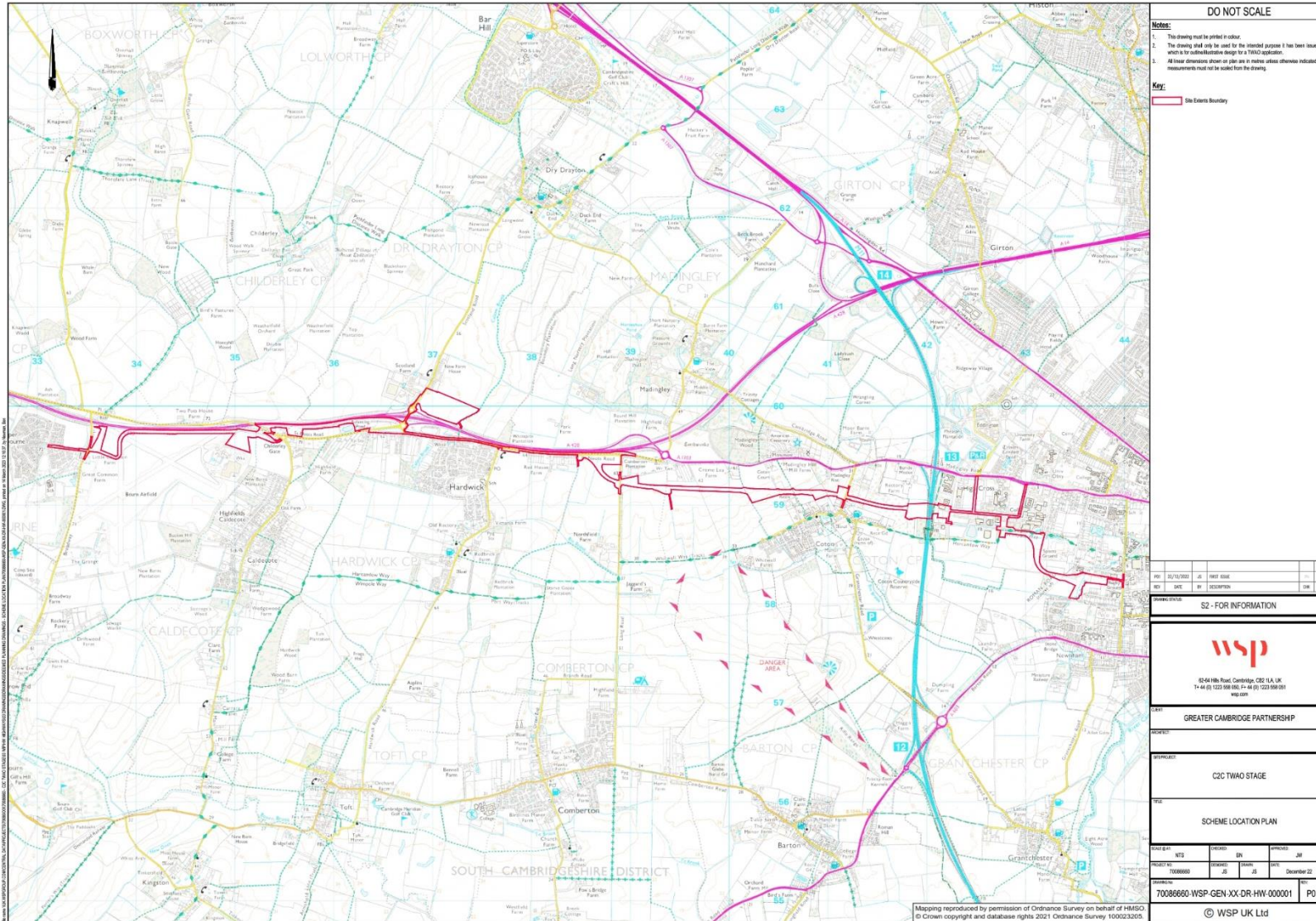
2.1 The Cambourne to Cambridge Transport Scheme

- 2.1.1 The GCP has been developing a number of Guided Busway projects, building upon the success of the existing Cambridge to St Ives scheme. The schemes have been developed in accordance with Department for Transport requirements.
- 2.1.2 The C2C Scheme is a priority project for the GCP and is one of four travel corridors being developed as part of the delivery of the City Deal which was signed in 2014 with the intention to “see a step change in transport infrastructure, create jobs and boost the local economy”. The C2C Scheme aims to provide better public transport, walking and cycling options in the area west of Cambridge in order to improve journey times and to address a transport constraint on growth by linking key employment and housing sites together, and with the city centre. A map of the preferred scheme is provided below with detailed maps appended.

Map of preferred route



Map of land requirements



2.2 The C2C Scheme is a proposed new public transport route linking Cambourne and Cambridge the details of which are set out at paragraph 1.3 above.
Guidance Systems

2.2.1 Innovations in guidance systems have recently been permitted by the Transport and Works (Guided Transport Modes) Order 2022 which came into force on 26 December 2022. This Order provides for modes of transport that are guided by sensory technology in contrast to the existing modes of transport that are physically guided.

2.2.2 A number of technological guidance systems were therefore considered for C2C Scheme, moving away from the traditional, physical guidance system. The assessment covered six guidance technology options, namely:

- a. kerb;
- b. optical;
- c. trolley;
- d. soft/rail;
- e. magnetic; and
- f. wire/cable.

2.2.3 The assessment concluded that both kerb guidance and optical guidance achieve most or all of the requirements for the C2C Scheme. Despite the physical differences in infrastructure required for each system, the overall footprint of the C2C Scheme will remain similar for each option.

2.2.4 The preference for the C2C Scheme is the optical guidance system using electric or hybrid vehicles although the C2C Order will not restrict the mode of guidance meaning that any permitted mode could be used for the purposes of the Order.

2.3 Optical Guidance Design

2.3.1 Optical guidance systems use onboard technology to steer the vehicle along using electromagnetic information conveyed from the busway. The driver controls only the acceleration and braking of the vehicle and can intervene in case of an emergency. The electromagnetic information is in the form of optical waves from markings on the road surfacing, used as a line of reference. When an onboard device scans the road markings a computer combines the signal obtained with the dynamic parameters of the vehicle to produce commands (e.g. vehicle speed, yaw rate, steering wheel angle). The commands are transmitted to a guidance motor on the steering column correcting any deviation from the line of reference.

2.3.2 The benefits of optical guidance technology include:

- precise positioning at boarding platforms, helping those with limited mobility;
- smooth transition between continuous guidance and no guidance modes;
- limited fixed infrastructure required;
- vehicles can follow a fixed path around corners; and
- technology can be retrofitted to any vehicle.

2.4 Kerb Guided Design

2.4.1 Kerb guided systems require the construction of kerbs to accommodate the guidance mechanism installed on the vehicles. The guidance mechanism uses small horizontal guide wheel fixed to the steering track of the vehicles to keep contact with the kerbs, guiding the vehicle along the route. Similarly, to the optical guidance design, the driver only controls the acceleration and braking.

2.5 Development Sites

2.5.1 As noted above, details in relation to the strategic need for investment in the C2C Scheme can be found in the OBC at Appendix 1. The OBC highlights the C2C Scheme objectives which include to support the delivery of new housing and job creation along the A428/A1303 corridor. The key development sites (**Development Sites**) are:

- Cambourne West: 2,350 dwellings.
- Bourn Airfield: 3,500 dwellings.
- West Cambridge: 10,000 jobs.

2.5.2 The developers of these sites are required to contribute to the C2C scheme under Section 106 agreements which are either in place or under negotiation. The Bourn Airfield site cannot proceed beyond 500 houses until C2C or an equivalent scheme is in place. Build-out of Cambourne West is restricted until the developer provides a link from Cambourne to Broadway which will eventually form a part of C2C, and the proposed Masterplan for West Cambridge shows the proposed alignment for the scheme through the campus.

2.5.3 Planning permissions have either been granted or in the process of being granted for the Development Sites with associated s 106 agreements to in part fund and in part to deliver the C2C Scheme details of which can be found in the OBC. A number of development agreements are being negotiated with the respective land owners and CCC authority to make an application for the C2C Order is presumptive upon satisfactory completion of the development

agreements and on the basis of the OBC financial case not being detrimentally affected.

2.6 Governance

2.6.1 The C2C Scheme has been through the GCP's internal governance processes, undertaking formal public consultations in 2015, 2017/8, 2019 and 2021, and in September 2022 was scrutinised by the GCP Joint Assembly and the Executive Board agreed that it should progress to the submission of a TWAO.

2.7 Promotion of a TWAO

2.7.1 As noted above, a series of approvals and delegations by Full Council followed the formation of the Greater Cambridge City Deal, including agreement to delegate certain functions to the Executive Board of GCP as the decision-making body for the Greater Cambridge City Deal, these included:

- *delegated responsibility to promote TWAOs for City Deal schemes;*

2.7.2 The GCP has now completed the necessary business case work for the C2C Scheme, which will continue to be developed and reviewed through to Full Business Case, and taken the decision to progress with a TWAO application, in accordance with the delegation provided by Full Council.

2.8 Transport and Works Act Order

2.8.1 A TWAO is a planning and consents process used for authorising new railways, tramways and busways. An application is made to the Secretary of State for Transport who ultimately makes the decision. If a local authority or a person who has interest in land which is subject to powers of compulsory acquisition objects, an inquiry or hearing shall be held. A public local inquiry is usually held. As part of the Order process it is the intention to request that the Secretary of State to deem the grant of planning permission by way of direction under section 90(2A) of the Town and Country Planning Act 1990. The deemed planning permission will contain planning conditions which will control the construction and monitoring of the C2C Scheme.

2.9 CCC as Scheme Promoter for the C2C Order

2.9.1 GCP Executive Board is a statutory joint committee formed by CCC, SCDC and the City Council. As such it is a decision making body formed under 102(1) (b) of the Local Government Act 1972 and section 9EB of the Local Government Act 2000. A joint committee is not a self-standing legal entity but is able to carry out delegated activities on behalf of its constituent authorities.

2.9.2 The Terms of Reference (**ToR**) of the GCP Executive Board specifically provides for delivery of the City Deal and its objectives

including the C2C Scheme. Paragraph 4.3 provides for a wide range of functions of the three authorities to be delegated to the GCP to "achieve the objectives of the Greater Cambridge City Deal".

- 2.9.3 Regarding the delegated functions to the GCP, the Transport and Works Act 1992 states that the applicant must be a body as detailed under the Local Government Act. This is not a function that CCC can delegate to GCP either through the constitution or the Joint Development Control Committee because GCP is not a legal person. It cannot hold or transfer property interests. It cannot give legally binding undertakings and assurances, enter in to binding contracts or indemnities that will be required of a TWAO promoter, even more so given its time limited existence. Whilst the Joint Committee is a decision making body, it is not a self-standing legal entity. In order to carry out the clear intentions of the three authorities any delegation of functions would also need to be accompanied by a means by which the GCP members are able to form a corporate body capable of acting as a vehicle for the promotion of a TWAO.
- 2.9.4 Following discussions with Officers, a Memorandum of Understanding (MoU) (**Appendix 3**) has been agreed between GCP and CCC, and CCC is required to:
- (i) Promote a TWAO necessary to implement a Project (including the C2C Scheme), including:
 - Obtain the required CCC Council Resolutions.
 - Submit an application for a TWAO.
 - (ii) Under the direction of the Project Board, be responsible for using its powers to compulsorily acquire land required for the Project including dealing with all compensation claims to be funded by GCP.
 - (iii) On completion of the Project, adopt and maintain all assets required for the completion of the Project.
 - (iv) Use all reasonable endeavours to exercise its highways, traffic management and other statutory powers to facilitate the timely delivery of the Project without fettering its discretion and will promptly exercise its planning functions in response to the application for a TWAO.

It should be noted that in order for roles and administrative arrangements within and between CCC, SCDC and the City Council to be clearly set out (and in order not to fetter discretion) a Separation of Functions protocol has been prepared which will be appended to the Explanatory Memorandum (see below section 6) identifying the different capacities of those officers within each authority dealing with the C2C Scheme. It also deals with the

requirements on Members to consider the function within which they are operating.

- 2.9.5 CCC has sought necessary legal assurances regarding the status of the MoU and any consequent risks. In summary -
- (i) The MoU is not legally binding (as GCP is not a legal entity with capacity to enter into a contract); however, the MoU has moral force and the parties are expressing principles to support their joint working.
 - (ii) A principal value of the MoU may be to record expected practice to provide assurance with regard to the Project and funding in order to mitigate the risk of CCC taking on liabilities which may impact its budget.
 - (iii) The MoU may benefit from explicitly recognising that CCC is taking on the legal obligations throughout and after the Project, and that the GCP is providing CCC with sufficient funding to cover all such legal obligations and potential liabilities.
 - (iv) A concern for CCC is that there is funding in place to cover current obligations, administration costs and expenses, and future maintenance obligations. It should be a low risk that CCC has to use its own funds for the Project. This is because GCP is subject to oversight by CCC on the use of funds, and CCC is putting in place an understanding with respect to the provision of funding ahead of CCC making any commitments on behalf of GCP.
 - (v) In light of the fact that GCP is a time-limited, non-legal entity with responsibilities for allocating a budget, it would be prudent for funding to be allocated / paid in advance to address the known and estimated cost or expenses involved in the Project.
- 2.9.6 CCC is satisfied that the current MOU will mitigate the risk of unrecovered overhead costs.
- 2.9.7 CCC and GCP will agree a pre-payment mechanism by which long term maintenance costs are wholly funded either as they are for the existing busway, or through a bus franchising mechanism if that is adopted for the area.

2.10 Programme

- 2.10.1 The programme for delivery will be subject to the timescales and outcome of the statutory process associated with the TWAO.
- 2.10.2 Save for technical amendments to the application documents and agreements to be completed with the landowners of the Development Sites together with delegations sought and assurances made by GCP, the C2C Order application is in a state of readiness for CCC to

consider its approval by members. Assuming that objections to the C2C Order are received it is likely that a local public inquiry will be held in winter 2023/ spring 2024 (timing subject to the statutory process) and, subject to a satisfactory outcome, the C2C Order would be expected to come into force in winter 2024 (depending on DfT timescales and resources). This would enable submission of a Final Business Case shortly thereafter.

2.10.3 An indicative programme is set out below at Table 1.

Table 1; Indicative Programme

Task	Commentary	Timescale
Submit application for statutory consent	The power to construct the scheme will come from a TWAO which would be determined by the Secretary of State for Transport. This process is likely to include a Public Inquiry directed by an independent Inspector. The Inquiry may recommend amendments to the scheme in order to address concerns raised.	Submit application Summer 2023 with a determination period estimated of around 18 months – completed in late 2024
Seek authority to construct project	Following the completion of the statutory permissions stage, the GCP Executive Board will be presented with the Final Business Case for approval. This will trigger the construction of the project.	2024 depending on statutory powers process
Opening of the scheme to operational services	Planned opening	Planned for end 2026

2.10.4 C2C Order, Explanatory Memorandum and Deemed Planning Application

2.10.5 The draft C2C Order at **Appendix 4** sets out the powers that CCC is seeking including a schedule of proposed works, interference with property interests, public rights of way changes, traffic regulations as well as charges, penalties and criminal sanctions to control the operation of the C2C Scheme.

- 2.10.6 A draft Explanatory Memorandum is also attached at Appendix 4 which explains the background and reasoning for each article in the draft C2C Order as well as the Separation of Function protocol referred to above and a Statement of Reasons for the acquisition of property interests (see below Compulsory Acquisition of Land at section 1.11). Also included at Appendix 4 is a draft Statement of Aims which is a document required by the Rules and explains the aims of the C2C Scheme in non-technical terms.
- 2.10.7 The draft C2C Order must be read alongside the draft Land and Works and Rights of Way Plans at **Appendix 5**
- 2.10.8 The application for the C2C Order will be accompanied by a request for a Planning Direction pursuant to S90(2A) of the Town and Country Planning Act 1990 and a draft is appended at Appendix 6 . A draft Planning Report also at **Appendix 6** describes the Proposed Development (**Proposed Development**) for which the Request for Deemed Planning Permission is sought for the required change of use of land, along with the physical development and other works which make up the Proposed Development. Certain details, such as the full details of scale and external appearance of the certain structures and hard/soft landscaping works are 'reserved' for subsequent approval by the relevant local authorities, through draft planning conditions that accompany the Request for Deemed Planning Permission.
- 2.10.9 The Request for Deemed Planning Permission should be read alongside the Deemed Planning Drawings at **Appendix 7** which illustrate both the existing arrangements (landform and structures) and the Proposed Development. .
- 2.11 Compulsory Acquisition of Land
- 2.11.1 In a TWA application for the C2C Scheme, compulsory acquisition of land and rights and temporary possession powers in respect of certain land interests is required for delivery of the C2C Scheme. As referred to above at paragraph 1.5.2 the Executive Board has delegated authority to promote the C2C Order (with further delegation sought in this report to finalise and submit the application) and requirements outlined in the Rules and other legislation and guidance regarding compulsory acquisition are being strictly adhered to. .
- 2.11.2 The Executive Board is also able to confirm to CCC as the applicant that it has entered into negotiations to acquire other parties' interests voluntarily and is progressing those discussions. These negotiations are ongoing but it is considered necessary to acquire the land interests by compulsory acquisition to enable the C2C Scheme to be delivered.

2.11.3 The Executive Board has, during the preparation of the C2C Order application, been in discussion with a number of statutory undertakers about the diversion of existing utilities along the Scheme length.

2.12 The Case for Compulsory Acquisition

2.12.1 The reasons for the inclusion of compulsory acquisition powers within the draft C2C Order are set out in the Statement of Reasons appended to the Explanatory Memorandum as part of the application and explains it is necessary to include compulsory acquisition powers within the C2C Order so that CCC can acquire the land interests required for the construction and operation (including maintenance) of the C2C Scheme that is not already in its possession. The Statement of Reasons also explains why powers are necessary to enable CCC to use land temporarily and to compulsorily acquire, suspend, interfere with or extinguish rights over land. This is in order to construct and maintain the C2C Scheme in a way that is both proportionate and in the public interest by reducing environmental impacts, minimising the cost to CCC and mitigating the impact on affected land interests. This compelling case is evidenced further in the wider documentation that accompanies the application.

2.12.2 The powers of compulsory acquisition and temporary possession sought in the application are necessary, proportionate and justified. The powers sought are in accordance with all relevant statutory and policy guidance. The GCP team has appointed an external CPO surveyor expert and extensive negotiations have taken place with landowners affected by the C2C Scheme. These will continue throughout the TWAO process in the hope that acquisition of the required land and rights can be secured by agreement.

2.12.3 There is a compelling case in the public interest for the compulsory acquisition and temporary possession powers sought. The conclusion of this report is that the grant of the compulsory powers requested would be lawful under all applicable legal regimes.

2.13 Fair Compensation

2.13.1 Any person affected by the exercise of compulsory acquisition powers or by the exercise of temporary possession, may be entitled to compensation. This entitlement to compensation is provided for by the existing compensation code and the draft C2C Order. There are sufficient resources to pay such compensation as provided for in the MoU and the Executive Board has demonstrated in the draft Funding Statement Proposals at **Appendix 9** (which outlines the source of funding for delivery of the C2C Project), that these resources are available. Appended to the draft Funding Statement is a draft Estimate of Costs as required by the Rules.

2.13.1 Any dispute in respect of the compensation payable may be referred to the Upper Tribunal (Lands Chamber), an independent tribunal, for determination.

2.14 Environmental Assessment

2.14.1 Prior to CCC adopting a recommendation to make an application for the C2C Order it must be fully appraised of the significant environmental effects of the C2C Scheme, the consultation undertaken to determine and appraise those effects, the essential mitigation required to address those effects and the residual significant effects of the C2C Scheme.

2.14.2 Whilst the OBC provides the strategic approach to the determination of the preferred route including alternative routes considered, the Environmental Statement (**ES**) undertaken in accordance with the Rules at **Appendix 10** documents that a full environmental impact assessment has been undertaken on the C2C Scheme and will be submitted as part of the C2C Order application.

2.14.3 The draft ES provides further details of the reasonable alternatives studied by GCP and indication of the main reasons for selecting the chosen option, including a comparison of environmental effects. The ES assesses likely significant environmental effects and where such impacts have been identified, proposed mitigation measures and residual effects are set out. The ES is also an essential component in the determination of the land take for the scheme, including areas for mitigation. Further details on significant implications on the environment and climate change are provided below

2.14.4 On the basis of the draft ES appended to this report the below table provides a summary of predicted likely significant effects once mitigation has been implemented:

Environmental consideration	Construction	Operation
Socio-economics / population / health	None	Bridleway 39/30 will be permanently diverted by 300m
Transport	None	Significant benefits
Noise and Vibration	Potential for 279 and 95 receptors to be effected by noise and vibration, respectively. This would be for short durations, although once the	None anticipated

Environmental consideration	Construction	Operation
	<p>construction programme has been confirmed these effects are likely to be reduced. Currently using a precautionary estimate</p>	
Air Quality	None	None
Landscape and Visual	<p>Potential for significant visual effects for 70 receptors at homes and footpaths to be effected for short durations.</p> <p>Potential for significant landscape effects around Coton and Hardwick.</p>	<p>During the first year of operation, visually, a small number of receptors will be effected. Landscape impacts are also anticipated east of Hardwick.</p> <p>However, as screening (i.e. landscape planting) matures, the effects will be lessened to non-significant by year 15.</p>
Water	None	None
Ecology	None, although some operational effects may begin during the construction phase	<p>Loss of Habitat of Principal Importance (HPI) woodland and traditional orchard, however the effects expected to be lessened to non-significant between year 15 and 30, on basis of compensation habitat offsite. Loss of HPI hedgerow, however the effects will be lessened to</p>

Environmental consideration	Construction	Operation
		non-significant in year 5. Local impact on terrestrial invertebrates due to loss of 2.2ha of habitat mosaic in Coton Orchard
Heritage	None	None
Archaeology	None	Potential for several significant effects depending on specific disturbance to potential remains. Trial trenching is still ongoing
Agricultural land	None	60ha of best and most versatile land will be permanently lost
Contamination of land	None	None
Greenhouse gases	Carbon released from the infrastructure lifecycle (materials, transport, construction, maintenance and end of life)	
Materials and waste	None	None

2.14.5 As part of the environmental impact assessment process it is important to determine areas of open space, including open space as defined by the Acquisition of Land Act 1981 as "any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground". Where compulsory acquisition of such open space is proposed, statute requires that an equivalent area of exchange land is provided which is a further component in the determination of land take for the scheme.

2.14.6 Replacement land and mitigation land need to be understood so that the C2C Order limits can be settled, thereby enabling affected land and interests in land to be identified, then allowing CCC as acquiring

authority to properly consider the compensation implications and human rights impacts for the proposed acquisition to be considered.

- 2.14.7 The land which is considered to be open space lies immediately to the east of the M11 as C2C crosses into University land. However, it has been agreed between the parties that the University land would be excluded from compulsory acquisition.
- 2.14.8 Where CCC is not to use its compulsory acquisition powers under the C2C Order to secure open space, there would be no need to follow statutory requirements for an open space assessment and replacement land to be identified in a request for a certificate from the Secretary of State under section 19 of the Acquisition of Land.
- 2.14.9 From GCP's investigations there is a small area of land referred to as DT Over land which is wholly dedicated as a bridleway which means that it may or may not be treated as open space although again, voluntary acquisition is being sought.
- 2.14.10 Additionally, there is Crown land held by the Department for Transport, between the DT Over land and the University's land although it is likely that this land will be taken into National Highways ownership. Until it is, the land is Crown land and therefore cannot be subject to compulsory acquisition at least in relation to Crown interests.
- 2.14.11 The conclusion of the above is that at this stage it is not possible to determine whether the Acquisition of Land Act requirements will apply and the extent of land to be required as replacement land under the legislation if it does. However, an open space assessment is being compiled as required by the legislation to determine the extent of, and possible locations for replacement land all within the C2C Scheme red line boundary. For the above reasons the draft Open Space Assessment (**Appendix 11**) is not yet at a stage to be appended to this report.
- 2.14.12 However, all open space, whether open space as determined under the Acquisition of Land Act or as a local plan policy requirement, and required for the C2C Scheme, will be replaced by sufficient open space fully available for use by the public. Draft condition 9 of the draft Request for Deemed Planning at Appendix 5 ensures that this requirement is to be discharged prior to development commencing at the location of any open space.

2.15 Consultation

2.15.1 As referred to in paragraph 3.4 the C2C Scheme has been consulted on widely and a Consultation Report (**Appendix 12**) as required by the 2006 Rules has been prepared.

2.15.2 The report provides details on the consultation rounds, issues raised and feedback. In addition, the stakeholders engaged, the comments and concerns received and the actions taken to respond to those comments. It also includes a summary of engagement with those parties with property interests (including utilities) or whose property is impacted by the C2C Scheme. This summary provides details of the agreements that have been secured with interested parties and the ongoing action to be taken to settle voluntary agreements prior to the C2C Order being made.

2.16 Compliance with Statutory requirements and policy guidance for making a Transport and Works Order Application.

2.16.1 The consultation report has been prepared in accordance with the requirements of the Rules and the compulsory acquisition guidance.

2.16.2 GCP carried out comprehensive consultation on the proposed Scheme. The consultation process included four formal rounds of consultation from 2015 to 2022 with both key stakeholders and the local community. The purpose of these consultations was to ensure statutory bodies, landowners, members of the public and other stakeholders understood the Scheme and the potential environmental effects. It provided them with a series of opportunities to comment on the proposals at key stages of development and for the project team to ensure these responses were considered as part of Scheme design and construction planning.

2.16.3 Each round of consultation was well publicised to ensure a wide range of individuals and organisations had the opportunity to comment. It was also iterative; issues raised informed the Scheme development and were thereby carefully considered as part of each subsequent round of consultation. Engagement with stakeholders and the wider community has been undertaken, is ongoing and will continue post-submission and up to public inquiry. A full report on each of these consultation exercises, along with details of other consultation activity is included in the consultation report.

2.16.4 The consultation report should be read alongside the other TWAO application documents that relate to the application to be submitted including compulsory acquisition powers sought by CCC. References to these documents are provided below.

2.17 Source documents

2.17.1 The following documents have been relied upon in preparation of this report and/or will form a part of the eventual submission to DfT and, as such are available for review.

- Outline Business Case (Appendix 1)
- Preferred Route Map (Appendix 2)
- Memorandum of Understanding (Appendix 3)
- Draft C2C Order and Explanatory Memorandum (Appendix 4)
- Draft Land and Works and Rights of Way Plans (Appendix 5)
- Draft Planning Report and Request for deemed planning permission (Appendix 6)
- Deemed Planning Drawings (Appendix 7)
- Book of Reference of land to be acquired (Appendix 8) Not yet completed
- Draft Funding Statement (Appendix 9)
- Draft Environmental Statement and Non-Technical Summary (Appendix 10)
- Draft Open Space Assessment and application for a certificate under s 19 Acquisition of Land Act 1981 (Appendix 11) Not yet completed.
- Draft Consultation Report (Appendix 12)
- Draft Equality Impact Assessment (Appendix 13)

Please note: Appendixes 4, 5, 6, 7, 9, 10, 12 and 13 are all in draft and subject to changes as may be required by GCP and officers of the Council under delegated authority sought in this report.

2.17.2 Location

Given the number of documents, many of which have constituent appendices all documents can be found through the following web address which collates the documents in a series of folders:

<https://www.greatercambridge.org.uk/sustainable-transport-programme/public-transport-schemes/cambourne-to-cambridge/c2c-twao>