

Leader's Decision Record

Title of Report: A595 Grizebeck Improvement Scheme - Land Acquisition, Compulsory Purchase Order and Side Roads Order

Decision of: Stewart Young, Leader, Cumbria County Council

Cabinet Member: Keith Little, Cabinet Member for Highways and Transport

1. What is the decision about? (Brief Summary)

1.1 The report seeks approval for the acquisition of land and new rights over land by agreement and the making and, if confirmed, implementation of a Compulsory Purchase Order (CPO) and a Side Roads Order (SRO) in order to construct the A595 Grizebeck Improvement Scheme which is needed to support economic growth by facilitating the movement of goods and people between West and South Cumbria and by providing strategic improvement to the major road network, whilst also addressing local transport issues arising from the impact of the A595 in Grizebeck.

1.2 There is a need to progress the A595 Grizebeck Improvement scheme in a timely way to ensure the £2.244m funding from the Cumbria Local Enterprise Partnership (CLEP) takes the scheme to full business case (FBC) submission. The scheme has already been approved at Outline Business Case (OBC) by the Department for Transport (DfT) into the Major Road Network Programme to receive £12.718m subject to FBC approval. The CLEP funding is subject to the Council securing and being paid the DfT funding. On the basis that the exercise of the Council's powers of compulsory purchase (if authorised by the Secretary of State's confirmation of the CPO) would be used to acquire land only where acquisition by agreement is not possible within the requisite timescales. The Leader is recommended to approve that the Council makes a CPO to enable the timely acquisition of land, and an SRO to authorise the works needed for the A595 Grizebeck Improvement Scheme, as the most appropriate way of ensuring this critical infrastructure scheme can be delivered at the earliest opportunity.

2. Recommendation(s) to the Leader

2.1 It is recommended that the Leader agrees to:

- a) Authorise the Executive Director, Economy and Infrastructure (or in her absence the Assistant Director Environment and Enterprise) in consultation with the Deputy Leader and Portfolio Holder for Highways and Transport, to take all appropriate actions necessary for the purpose of negotiating the terms and conditions to acquire by agreement the land

and new rights over land which are needed to allow the construction, operation and maintenance of the A595 Grizebeck Improvement scheme.

- b) Authorise the making of a Compulsory Purchase Order (or Orders) pursuant to Sections 239, 240, 246, 249, 250 and 260 of the Highways Act 1980 and all other enabling powers, to be known as "The Cumbria County Council (A595 Grizebeck Improvement Scheme) Compulsory Purchase Order 2022", for the compulsory purchase of land and rights required for the A595 Grizebeck Improvement Scheme within the area shown on the draft Order Map (a draft of which is at Appendix 1).
- c) Authorise the making of a Side Roads Order (or Orders) pursuant to Sections 14 and 125 of the Highways Act 1980 and all other enabling powers, to be known as "The Cumbria County Council (A595 (Grizebeck Improvement Scheme) Classified Road) (Side Roads and Other Works) Order 2022" to improve or stop up existing highways, to construct new highways and to stop up and provide replacement private means of access as required to deliver the Grizebeck Improvement Scheme.
- d) Authorise the Executive Director - Economy and Infrastructure (or in her absence the Assistant Director Environment and Enterprise) to take all appropriate actions necessary for making any amendments or modifications, including updates or corrections to the draft A595 Grizebeck Improvement Scheme CPO and SRO (at Appendices 1 and 2) should these be necessary and for finalising and making the A595 Grizebeck Improvement Scheme CPO and SRO (such amendments or modifications do not include additions to the proposed area of land take under the CPO).
- e) Authorise the Executive Director - Economy and Infrastructure (or in her absence the Assistant Director Environment and Enterprise) to take all necessary action to secure the making, submission to the Secretary of State for confirmation, and (if confirmed) implementation of the A595 Grizebeck Improvement Scheme CPO and SRO, including diligent inquiry to ascertain land ownership information, the publication and service of all requisite notices on relevant parties and the negotiation and completion of any necessary agreements and undertakings in order to secure the removal of objections to the CPO and/or SRO (where such agreements or undertakings are appropriate), and to prepare for, attend at, and secure the presentation of the Council's case at any Public Inquiry.
- f) Subject to confirmation of the A595 Grizebeck Improvement Scheme CPO and SRO, authorise the Chief Legal Officer to take all necessary action to implement the A595 Grizebeck Improvement Scheme CPO and SRO and to acquire all land, interests in land and/or new rights over the CPO land and/or possession of the CPO land as necessary, including the service of Notices to Treat and Notices of Entry, or as the case may be, the execution of General Vesting Declarations.

- g) Authorise, in the event that any question of compensation is referred to the Upper Tribunal (Lands Chamber) the Executive Director – Economy and Infrastructure (or in her absence the Assistant Director Environment and Enterprise) in consultation with the Chief Legal Officer, to take all necessary steps in connection with the conduct and, if appropriate, settlement of such proceedings.
- h) Authorise the Executive Director - Economy and Infrastructure to seek to acquire the land and rights (or to extinguish rights) required for the A595 Grizebeck Improvement Scheme by agreement and to take all necessary steps to enable the negotiation of and entering into the agreements necessary to complete such acquisitions.
- i) Authorise the Executive Director - Economy and Infrastructure to take all necessary steps to enable the negotiation and approval of the payment of relevant and reasonable professional fees incurred by landowners and others with compensatable interests in taking professional advice in connection with the acquisition of their interests required for the A595 Grizebeck Improvement Scheme and related compensation claims and also in advancing the development or implementation of the A595 Grizebeck Improvement Scheme.

3. Background to the proposals

- 3.1 The A595 Grizebeck Improvement is a proposed 1.4km single carriageway road between Chapels and Grizebeck on the A595. Improving the highway network on the A595 has been identified as critical to support economic growth and the movement of goods and people between West and South Cumbria. The scheme will also ensure the A595 can function adequately as a strategic diversion route for the A590.
- 3.2 The *West of M6 Strategic Connectivity Study* published in September 2016 and the *Strategic Outline Business Case: A595 and A66*, published in January 2018 (which were undertaken in partnership between Cumbria County Council, National Highways and CLEP) identified that the A595 Grizebeck Improvement Scheme was necessary to improve strategic and local connectivity between Furness and West Cumbria. This provided the basis for the submission to CLEP for growth deal funding and the subsequent funding award in November 2020 to develop the scheme to FBC. Additional to this the scheme had already been approved at Outline Business Case (OBC), in October 2020, by the Department for Transport (DfT) into the Major Road Network and Large Local Majors Programme to receive £12.718m subject to FBC approval.
- 3.3 The CLEP grant funding agreement includes a series of milestones for delivery of the A595 Grizebeck Improvement Scheme and requires the grant to be spent by the end of March 2023. The CLEP grant is to be used to take the Council to the position where the FBC is submitted to DfT in September 2023. The CLEP milestones also require the construction to start in 2024 and for the A595 Grizebeck Improvement Scheme to be completed by August 2025. If FBC

approval is not obtained, or the road is not built CLEP can request the return of the grant.

- 3.4 In line with the CLEP grant funding agreement and DfT FBC, the Council is required to assemble all the land necessary for the construction and delivery of the A595 Grizebeck Improvement Scheme by February 2024. Whilst the Council's preference would be to acquire land by agreement, in order to ensure that the CLEP and DfT deadlines can be met, the Council needs to make a CPO in parallel with its efforts to acquire land by agreement, as a contingency measure and to ensure that all the land and new rights over land which are required for the A595 Grizebeck Improvement Scheme can be acquired compulsorily in the event that the land and new rights cannot be acquired through negotiation and agreement within the requisite timescales.
- 3.5 It is to be noted that this programme will be impacted by the Local Government Reorganisation for the county of Cumbria. From the planned vesting date on 1 April 2023, Cumbria County Council together with six other local councils will cease to exist and they will all be replaced by two new separate unitary authorities. For the geographical area of south Cumbria which includes the Grizebeck scheme, the new unitary authority will be the Westmorland and Furness Council. Although there is a shadow authority for the new Westmorland and Furness Council already in place at the time of writing this report, it will only take over the functions of Cumbria County Council from 1 April 2023. Such functions for the new unitary authority are expected to include the same statutory powers for a Highway Authority as Cumbria County Council; and the new unitary authority is expected to be capable of making further progress with the CPO (together with the accompanying SRO), notwithstanding that the Council will have made and published the Orders prior to 1 April 2023.
- 3.6 The CPO is to be known as "The Cumbria County Council (A595 Grizebeck Improvement Scheme) Compulsory Purchase Order 2022". The draft CPO Map is in Appendix 1 to this report. The CPO is to be made under the following enabling provisions in the Highways Act 1980:
- Section 239 (to construct new highways and improve existing highways and to improve frontages to a highway or adjoining and adjacent land)
 - Section 240 (to carry out works authorised by a SRO, to create new means of access to premises, to use land in connection with the construction and improvement of highways, the use of land for working space and provision of access to a working site and for the diversion of non-navigable watercourses)
 - Section 246 (to mitigate the adverse effect of the existence or use of the highways proposed to be constructed or improved on their surroundings)
 - Section 249 (application of the distance limits for compulsory acquisition)
 - Section 250 (to create and compulsorily acquire new rights)

- Section 260 (to override the effects of restrictive covenants or other third party right over land, where land included in the CPO has been acquired by agreement by the Council)
- 3.7 In addition to the CPO, the scheme design for the A595 Grizebeck Improvement Scheme also has implications for the existing highways and side roads and requires the making of a Side Roads Order (SRO). The A595 Grizebeck Improvement Scheme SRO needs to be made to authorise the stopping up, alteration, creation and improvement of highways which will connect with the new classified road to be delivered as part of the A595 Grizebeck Improvement Scheme, and also to authorise the construction of new highways, the stopping up of private means of access to premises, the provision of new private means of access to premises and other associated works, including alterations to Public Rights of Way. Details of these changes are shown on the draft SRO plans in Appendix 2 to this report.
- 3.8 Once the CPO and SRO (the Orders) are made by the Council, they will then be publicised in accordance with the relevant legislation. In the event that objections are received in relation to one or both of the Orders, it is likely that the Secretary of State for Transport will require a public local inquiry to be held so that the Orders and any objections to them can be considered by an Inspector. Either the Inspector or the Secretary of State for Transport will make the final determination upon whether or not to confirm the Orders (and if to confirm the Orders, whether with or without modifications).
- 3.9 The confirmation of the CPO is dependent on the Council demonstrating the following:
- a) There is a clear **need for the A595 Grizebeck Improvement Scheme**.
 - b) **Alternative options** have been considered (including alternatives to the Grizebeck Improvement Scheme as now proposed, and alternatives to the compulsory acquisition of land).
 - c) A compelling case in the **public interest** (where the public benefits to which the A595 Grizebeck Improvement Scheme would give rise outweigh the private losses that would be suffered if the A595 Grizebeck Improvement Scheme was delivered).
 - d) There is clarity and certainty on the **funding** for and viability of the A595 Grizebeck Improvement Scheme.
 - e) CPO powers would be used as a **last resort**, where the Council's efforts to seek to acquire land or rights over land by agreement are ultimately unsuccessful within the requisite timeframe.
 - f) **Planning permission** for the A595 Grizebeck Improvement Scheme is or can be secured.

- g) **Human rights and equalities** impacts have been considered and the impact of the A595 Grizebeck Improvement Scheme on persons affected by it is lawful, justified and proportionate, and the private losses suffered by such persons would, on balance, be outweighed by the benefits that the A595 Grizebeck Improvement Scheme would deliver.
- h) The presence of any **special category land** does not constitute an impediment to the implementation of the A595 Grizebeck Improvement Scheme; and
- i) All **other relevant matters** in the CPO guidance have been or are being complied with by the Council.

3.10 A detailed Statement of Reasons (a draft of which is attached at Appendix 3 to this report) has been prepared in support of the CPO and SRO addressing all these considerations. This document sets out the compelling case in the public interest for the making and confirmation of the A595 Grizebeck Improvement Scheme CPO and SRO in the circumstances of this case. The need case for the A595 Grizebeck Improvement Scheme is summarised in paragraphs 4.1 to 4.3 below.

4. Need for the Scheme

- 4.1 The A595 provides a critical link for Cumbria, offering the only direct link between Barrow and its major manufacturing and energy industries to the South, the major cluster of nuclear and manufacturing industries in West Cumbria and onwards to Carlisle in the North. Despite this role the route is affected by poor journey reliability and resilience due to the constraints of narrow carriageways, poor junctions and route alignment and as such represents a critical barrier to the future success of Cumbria's economy. Two of Cumbria's biggest employers BAE Systems at Barrow-in-Furness and Sellafield on the Energy Coast in West Cumbria, have a combined and highly skilled workforce in excess of 18,000 people; yet the ability for each company, and their wide supply chains, to access that talent pool are hampered by poor connectivity between the two locations. Infrastructure enablers to realise this transformative growth and bring talent pools together are detailed in the *West of M6 Strategic Connectivity Study* published in September 2016 and the *Strategic Outline Business Case: A595 and A66*, published in January 2018 which identified a package of highway improvement measures on the A595, including at Grizebeck.
- 4.2 To support this level of growth, a major infrastructure upgrade is essential with the A595 Grizebeck Improvement Scheme improving strategic and local connectivity through improved journey times and better journey time reliability between Furness and West Cumbria.
- 4.3 In addition to improving north-south connectivity between Furness and West Cumbria, the A595 Grizebeck Improvement Scheme would also support the delivery of two other objectives which the Scheme is designed to address:

- i. **Improving the strategic highway network** – the A595 Grizebeck Improvement Scheme would enhance resilience of the road to withstand severe weather events and preserve its function as an Emergency Diversion Route (EDR) for the Strategic Road Network during periods of closure on the A590, between Dalton-in-Furness and Greenodd.
- ii. **Addressing local transport issues** – currently the A595 through Grizebeck is sub-standard, with poor visibility and alignment; in one particular location, the route becomes a single-lane through farm buildings, requiring vehicles to wait before passing; elsewhere within the village, unsuitable rural lanes are used by high volumes of traffic as shortcuts. The A595 Grizebeck Improvement Scheme would address these local transport issues. The route would also provide opportunities for walking, cycling, and public transport by connecting the South to the North of the scheme with an offline route utilising the existing road as a quiet road and section of new dedicated non-motorised route. Public transport will be improved with upgraded bus stop infrastructure.

5. Alternative Options

- 5.1 As part of the examination of issues and constraints associated with the strategic road connectivity, route capability, resilience and reliability of the A595, A66 and A590 trunk roads, west of the M6 motorway, CLEP in partnership with National Highways and Cumbria County Council, published the *West of M6 Strategic Connectivity Study* in September 2016. Using Stage 1 Transport Analysis Guidance (TAG) appraisal methods a long list of 100 transport interventions were identified, with a resulting 38 schemes prioritised for further development. The *West of M6 Strategic Outline Business Case: A595 and A66*, published in January 2018 set out the rationale, options, benefits and means for delivering the identified package of measures on the A595. Using DfT's Five Case Model methodology the SOBC demonstrated the need for transport infrastructure improvements to support the growing economy, strengthen resilience, and give relief from congestion and severance for settlements reliant on the A595. Critically, the SOBC identified the importance of improvements to the A595 at Grizebeck as a scheme for early delivery.
- 5.2 Having identified a new road scheme as the best way of meeting the strategic road connectivity objectives, there were then two early stages of development work leading to the Outline Business Case:

Stage 1 – Long List Intervention Sift

The Stage 1 assessment considered potential route options for a road scheme which was the broad choice identified as the best way of meeting the objectives. A long list with twelve infrastructure options was developed that could be brought forward to Stage 2 (Option Selection) for the Grizebeck Improvement Scheme of which three were deemed unsuitable for further development.

Stage 2 – Further Options Appraisal

The remaining nine options were reviewed through an assessment process using the DfT's Early Assessment and Sifting Tool. The options were scored and ranked using four assessment criteria: strategic, economic, value for money, and feasibility.

The scoring exercise identified four scheme options to be taken forward to the next stage and to be assessed at a more detailed level.

1. Red route – online widening with a bypass of Grizebeck
2. Blue route – full bypass to the east of Dove Ford Farm
3. Green route – Buckhorn Lane upgrade
4. Purple route – western route

The further development of the green route identified that the option could not meet the Grizebeck Improvement Scheme objectives and would not provide sufficient benefit in the economic appraisal. The purple route was considerably more expensive than the red and blue routes and was discounted. The purple and green routes were therefore not considered further and not taken to public consultation as a business case could not be made for investment in these options. Public consultation was undertaken on the two remaining routes in October and November 2018.

Following the public consultation on the red and blue routes, the selection of the preferred route alignment option (blue) was completed taking into account detailed appraisal work, including modelling and economics, in accordance with TAG best practice having been undertaken on the four route options. The blue route option was preferred by 75% of attendees at the public exhibitions held in October and November 2018. It was clear from this comprehensive options appraisal process that none of the alternative solutions would be capable of achieving the identified scheme objectives and delivering the resultant benefits better than, or on an equivalent basis to, the preferred option. The rationale for the selection of the preferred route is set out in the Preferred Route Report (March 2019).

- 5.3 The Council selected the blue route as the preferred route alignment in March 2019, following which the A595 Grizebeck Improvement Scheme then entered the preliminary design phase whereby the road was developed to a sufficient level of detail to allow the submission of a planning application in February 2022.
- 5.4 As noted above, the Council considers that compulsory purchase powers will be necessary to enable the assembly of the land required for the A595 Grizebeck Improvement Scheme, thereby facilitating delivery of the A595 Grizebeck Improvement Scheme within the requisite timescale. Given that the acquisition of third-party land is fundamental to the successful delivery of the Scheme, the Council also concluded that there is no reasonable alternative to the acquisition of land, whether such acquisition be affected compulsorily or by agreement.

6. Compelling Case in the Public Interest

- 6.1 As set out above, the A595 Grizebeck Improvement Scheme is required to improve strategic and local connectivity through improved journey times and better journey time reliability between Furness and West Cumbria as well as delivering the two additional objectives of, (i) improving the strategic highway network and (ii) addressing local transport issues. In achieving these objectives, the Council considers that the A595 Grizebeck Improvement Scheme would make a significant contribution towards the social, economic and environmental wellbeing of Furness and West Cumbria. The A595 Grizebeck Improvement Scheme is also viewed as being the most appropriate solution to the transport needs to support the growth ambitions of Furness and West Cumbria and the sub-region.
- 6.2 Without the confirmation of the CPO, the Grizebeck Improvement Scheme would likely not go ahead and a fundamental review of the proposal would be required, which would lead to lengthy delays and a loss of confidence and momentum that has otherwise been built up. This would inevitably lead to a sub-optimal solution, if indeed an alternative could be found.
- 6.3 The Council has considered the negative effects that its pursuance of compulsory purchase powers would have upon those with an interest in the land required for the A595 Grizebeck Improvement Scheme and has weighed those private losses (both on an individual basis and collectively) against the public benefits that the scheme would bring. This balancing exercise is outlined in the draft Statement of Reasons in support of the case for making the CPO and SRO. It necessarily includes careful consideration of the impacts of the A595 Grizebeck Improvement Scheme on the human rights of those affected by it (see paragraphs 10.1 to 10.4 below). Appendix 3 to this report contains the draft Statement of Reasons – see in particular Chapter 13 of the draft Statement of Reasons.
- 6.4 Having carried out that balancing exercise, the Council believes that the public benefits would outweigh the private losses and that, on that basis, there is a clear and compelling case in the public interest which would justify the use of compulsory purchase powers to facilitate the delivery of the A595 Grizebeck Improvement Scheme.

7. Funding

- 7.1 In January 2021, the Council entered into a grant funding agreement with CLEP to receive £2.244m of Growth Deal Funding to support the development of the A595 Grizebeck Improvement Scheme to submission of FBC to DfT. The CLEP funding is subject to the Council securing and being paid the DfT funding.
- 7.2 The scheme has been approved at Outline Business Case (OBC) by the Department for Transport (DfT) into the Major Road Network Programme to receive £12.718m subject to FBC approval. FBC submission is timetabled for September 2023, with DfT full approval expected in January 2024. In accepting

the DfT grant funding the Council has agreed to meet any funding shortfall for the scheme.

- 7.3 The cost for the delivery of the Grizebeck scheme is now estimated to be £23.292m which is £8.330m above the OBC cost estimate in 2019. These cost increases are a direct result of the continued inflationary pressure within the construction industry resulting in both a direct increase in construction materials cost and an indirect risk allocated by contractors in pricing contracts. The overall trend in cost increases is understood to have been exacerbated by Russia's invasion of Ukraine in February 2022.
- 7.4 To address the funding shortfall the Council has provided additional funding allocations within the Council's Capital Programme. Further to this the Council has consulted with the Westmorland and Furness Shadow Authority who is supportive of the funding commitment that has been made by the Council for delivery of the Grizebeck scheme.

8. Planning Permission

- 8.1 The planning applications for the A595 Grizebeck Improvement Scheme were submitted in February 2022. The first planning application was determined by Cumbria County Council's Development Control and Regulation Committee on 29 September 2022 and was approved with conditions. The second application was determined by the Lake District National Park Authority Development Control Committee on 05 October 2022 and was also approved with conditions.

9. Last Resort

- 9.1 To deliver the A595 Grizebeck Improvement Scheme all relevant land interests affected by the scheme will need to be acquired, preferably by voluntary agreement following negotiation, in a timely way, as a construction programme could only progress with certainty at a rate dictated by the timing of the last acquisition. The making of a CPO is therefore considered to be essential to facilitate delivery of the A595 Grizebeck Improvement Scheme in line with the Council's intended programme, particularly as land and interests in land in unknown ownership are affected (and for which there is no other option but a CPO).
- 9.2 The relevant Government Guidance makes clear that use of compulsory purchase powers is intended to be a measure of 'last resort'. A land assembly working strategy is being prepared in support of the delivery of the Grizebeck Improvement Scheme setting out the approach to be taken to ensure that reasonable efforts are made to acquire the necessary land by negotiated agreement. Where land cannot be acquired by agreement the CPO powers will be used to enable any remaining land to be acquired compulsorily. The Council notes that there must be a compelling case in the public interest to justify the use of CPO powers.

- 9.3 Whilst it is anticipated that further progress can be made on the negotiations for some parcels of and interests in land, the size of the scheme, extent of the area it covers, the number of land interests involved and the presence (notwithstanding diligent enquiry) of land interests in unknown ownership will very likely mean that not all interests can be acquired by agreement.
- 9.4 The Council has actively engaged or sought to engage with all known freehold owners, lessees, tenants and occupiers of the CPO land on an individual basis throughout the development process to date. This is an ongoing process.
- 9.5 These discussions will continue wherever possible, hopefully limiting the number of interests over which compulsory purchase powers will need to be exercised. Such discussions will also help to inform the accommodation works (aimed at accommodating adjoining and affected landowners and reducing the impact of the A595 Grizebeck Improvement Scheme on their land).
- 9.6 However, given the Council's need to deliver the A595 Grizebeck Improvement Scheme within a specified timescale and given the number of interests required and the related scope of negotiations, the Council has concluded it is unlikely it will be able to deliver the A595 Grizebeck Improvement Scheme within this timescale without the CPO. In addition, some plots are in unknown ownership and therefore cannot be acquired by agreement; in these cases, proceeding by way of compulsory purchase is the only route open to the Council.
- 9.7 All interests in land that will be affected by the delivery of the A595 Grizebeck Improvement Scheme and which will need to be acquired for the A595 Grizebeck Improvement Scheme will be set out in the CPO Schedule.

10. Human Rights

- 10.1 The Council is of the view that on balance, the significant public benefits to which the A595 Grizebeck Improvement Scheme would give rise would outweigh the negative effects upon, and the private losses of:
- those persons who own land or have an interest in land which is required for the A595 Grizebeck Improvement Scheme; and
 - those persons who would be affected by the stopping up of private means of access pursuant to the SRO.
- 10.2 The Council also notes that such private losses would be mitigated by the fact that landowners, and those with the benefit of interests in land affected by the implementation of the CPO, would be entitled to compensation payable in accordance with the statutory Compensation Code. Further, those persons with a private means of access stopped up in pursuance of the A595 Grizebeck Improvement Scheme would be provided, through the SRO, with a replacement means of access, where such replacement means of access was necessary.
- 10.3 The Council therefore considers that the proposed compulsory purchase of land and new rights over land is:

- legitimate – in that if authorised by a confirmed CPO, the acquisition would be lawful;
- necessary – in that there is a need for the A595 Grizebeck Improvement Scheme and land in the CPO is required to be acquired to enable that scheme to come forward in the form provided for the SRO; and
- proportionate – in that the private losses to which the A595 Grizebeck Improvement Scheme would give rise would be outweighed by the significant public benefits which it would deliver.

10.4 Any infringement of the human rights (as protected by the European Convention on Human Rights, incorporated in UK domestic law by the Human Rights Act 1998) of those persons whose interests are affected by the Orders is therefore considered by the Council to be proportionate and legitimate and in accordance with domestic and European law.

11. Equalities

11.1 The Public Sector Equality Duty (PSED) requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.

11.2 During the development of the A595 Grizebeck Improvement Scheme and the preparation of the Orders, the Council has had regard to the PSED and having regard to its statutory duties under the Equality Act 2010, has carried out an Equalities Impact Assessment (EqIA). A copy of the EqIA is provided at Appendix 4 to this report.

11.3 The EqIA is an ongoing process. Stage 1 comprised a screening exercise which sought to establish whether the impacts of the Grizebeck Improvement Scheme on persons with protected characteristics would give rise to the need for any new or amended Council policies or practices.

11.4 Stage 2 of the EqIA assessed the level of impact of the Grizebeck Improvement Scheme on protected characteristic groups, in the context of the PSED objectives to which the Council must have regard in carrying out its statutory functions. The Stage 2 EqIA identified that the Grizebeck Improvement Scheme would, during its construction and operational phases, have 'neutral' impacts on the majority of protected characteristics groups. In relation to the protected characteristic groups for age, disability and pregnancy and maternity, there could potentially be negative impacts either during the construction or the operation of the Grizebeck Improvement Scheme, but these are considered to be outweighed by the wider benefits the scheme will introduce. In the EqIA, it is stated that any negative impacts identified could be mitigated further in some cases through the detailed design process for the scheme, as detailed in Chapter 7 of the EqIA. These would be considered and developed initially through Stage 3 of the EqIA – action planning and monitoring which has still to be commenced as part of the next stage of the design process.

- 11.5 In addition to the EqIA, as part of the development of the proposals for the Grizebeck Improvement Scheme, a number of documents were prepared and submitted as part of the planning application. These include a Design and Access Statement, a Socio-Economic Assessment and a Walking, Cycling and Horse-Riding Review. Whilst none of these documents have any direct relevance to the EqIA, they do nonetheless contribute to the overall approach reflected in the design of the scheme proposals. As a result, the overall assessment together with the proposed Stage 3 Action Plan and monitoring proposals as documented in the EqIA will ensure there are no differential impacts of the Grizebeck Improvement Scheme for different social groups.
- 11.6 In formulating and promoting the Orders, the Council has had full regard to its statutory duties and obligations under the Equality Act 2010 and in particular, to its obligations in sections 149 and 150 of the 2010 Act, in taking into account the differential impact the Orders may have on some persons with protected characteristics. Whilst it is recognised that the Grizebeck Improvement Scheme will have impacts on a range of land and property interests it was found that any impacts it might have on protected characteristics groups could be addressed through monitoring and mitigation.
- 11.7 The impact of the A595 Grizebeck Improvement Scheme will continue to be monitored and reviewed throughout the promotion and implementation of the Orders to ensure that any impact can be considered and mitigated as necessary.

12. The Order land (including Special Category Land)

- 12.1 There are circa 75 plots of land that have been identified as being required for the A595 Grizebeck Improvement Scheme. Each plot may have one or more interests in the land due to the presence of lessees, tenants or occupiers in situ, or the existence of separately owned subsurface mines and minerals rights or the presence of existing public highway. Other interests may include access rights and covenants, for example. Some plots are already in the Council's ownership, and in the case of some plots, it may be impossible to ascertain ownership, notwithstanding diligent inquiry. Due to the number of land interests affected by and required for the A595 Grizebeck Improvement Scheme, there is the risk that not all interests can be acquired by negotiation and therefore it is necessary to make the CPO in a timely manner and in order to deliver the A595 Grizebeck Improvement Scheme within the timescales set out in the CLEP grant funding agreement.
- 12.2 The A595 Grizebeck Improvement Scheme is typically routed through rural land and there are 5 agricultural businesses affected by the scheme.
- 12.3 There are no plots of land in the CPO which are held by the National Trust or which form part of a common, open space or fuel or field garden allotment.
- 12.4 There is no Crown owned land or assets within the land which is proposed to be included in the CPO.

- 12.5 A number of statutory undertakers or other statutory bodies own land or have interests in the land, which is proposed to be included in the CPO, including Highways England (National Highways), United Utilities, Cadent Gas Networks Limited, British Telecom and Electricity North West Limited.
- 12.6 One such key statutory body is National Highways.
- 12.7 National Highways is not a statutory undertaker and nor is it a Crown body, but the Council is treating it with due regard given its statutory status as a Strategic Highway Authority.
- Within the proposed CPO boundary all of the plots of land in which National Highways has an interest lie outside of its operational land. As such, they are no longer used by National Highways for operational purposes and ought to have been transferred to Cumbria County Council when the A5092 and A595 were de-trunked in 2006. The Council is seeking an agreement in principle for the voluntary transfer of this land from National Highways to the Council.
- 12.8 There are also a number of statutory undertakers and telecoms providers who have an interest, relating to their apparatus, in the land which is proposed to be included in the CPO. In some cases, this apparatus will need to be relocated and in other instances can remain in-situ subject to protective measures being put in place. The Council is confident that all diversion agreements will be entered into at the necessary time such that the presence of statutory undertakers' and telecoms operators' land interests and apparatus are not considered to be impediments to the A595 Grizebeck Improvement Scheme proceeding.
- 12.9 There is land held in a charitable trust for the Grizebeck Community Hall; in due course, notice of making of the CPO will need to be served on each Trustee and on the Charity Commissioners.

13. CPO and A595 Grizebeck Improvement Scheme Delivery Programme

- 13.1 The headline target programme for the CPO and A595 Grizebeck Improvement Scheme is set out in the CLEP grant funding agreement (as amended in change control number 1 dated 8 March 2022) as follows:
- Make CPO - October 2022
 - Planning permission granted – October 2022
 - Confirm CPO - September 2023
 - Implement CPO - February 2024
 - Construction Start – February 2024
 - Construction Completion – August 2025
- 13.2 In parallel to progressing the CPO process, engagement is underway with all the affected landowners. For completeness, the CPO includes all known land interests and rights that are necessary to construct, operate and maintain the A595 Grizebeck Improvement Scheme. This provides a backstop position in

the event that any anticipated land transfers, dedications or acquisitions that are currently underway or impending do not reach agreement or the ownership of land which is currently unknown cannot be identified and needs to be acquired compulsorily. This approach will provide a means to offer confidence that all interests known or unknown can be acquired so as to deliver a 'clean' site for the construction of the A595 Grizebeck Improvement Scheme in line with the project programme.

14. Side Roads Order

- 14.1 An SRO will also be required, for the stopping up and improvement of highways which connect with the new classified road to be delivered as part of the A595 Grizebeck Improvement Scheme. The SRO, if confirmed by the Secretary of State, will authorise the construction of new highways, the stopping up of private means of access to premises, the provision of new means of access to them, and other associated works, including alterations to Public Rights of Way.
- 14.2 Construction of the A595 Grizebeck Improvement Scheme will also require some changes to the existing highways. The Council must secure the powers in the SRO to make changes to existing highways. Since the A595 Grizebeck Improvement Scheme will be a classified road the powers to make such changes are obtained through an SRO. Without SRO powers, the A595 Grizebeck Improvement Scheme cannot be implemented.
- 14.3 The SRO is to be known as "The Cumbria County Council (A595 (Grizebeck Improvement Scheme) Classified Road) (Side Roads and Other Works) Order 2022". Draft SRO Plans are in Appendix 2. The SRO is to be made under sections 14 and 125 of the Highways Act 1980.

15. Options Considered and Risks Identified

- 15.1 In considering whether to approve the recommendations in this report to authorise the making of the CPO and SRO (and to implement them if they are confirmed by the Secretary of State), the Leader needs consider the following options.

Option (a) – Agree Recommendations

The Council has to be certain that it will be able to obtain all the land and new rights over land that are needed for the construction of the A595 Grizebeck Improvement Scheme to fulfil the obligations in the CLEP grant funding agreement. Certainty of delivery of the A595 Grizebeck Improvement Scheme cannot be guaranteed without the inclusion of the CPO process in the Council's land assembly strategy. As summarised above, it is considered that there is a compelling case in the public interest to justify use of CPO powers to secure the land interests and rights required for the A595 Grizebeck Improvement Scheme. Where possible and in the first instance land will be acquired by agreement and only via a CPO if negotiations cannot be completed within the requisite timescale. The Leader's approval of a strategy involving the use of CPO powers will help to ensure that:

- Land required to construct the A595 Grizebeck Improvement Scheme can be acquired. Where land acquisition cannot be achieved by negotiation and agreement the CPO powers will be used to enable any remaining land to be acquired compulsorily.
- Changes required to be made to existing highways to accommodate the construction of the A595 Grizebeck Improvement Scheme will be able to be delivered, pursuant to the SRO, if it is made and subsequently confirmed.

Option (b) – Do not Agree Recommendations

If the Leader decides not to approve the recommendations, the Council will be in default of the CLEP grant funding agreement and additionally put at risk the future securing of DfT grant funding. The Council has entered the CLEP grant funding agreement to deliver the A595 Grizebeck Improvement Scheme with the grant funding agreement placing an obligation on the Council to make a CPO to ensure all the necessary land can be acquired in order to build the road. If the Council does not agree to make the CPO, it could be considered as a breach under the terms of the grant funding agreement, triggering claw-back of the grant payments received to date at that point and preventing the scheme and the associated benefits from being realised.

16. Reasons for the recommendation/Key benefits

- 16.1 It is considered that there is a compelling case in the public interest to justify use of CPO powers to secure the land interests and rights required for the A595 Grizebeck Improvement Scheme to provide strategic north-south connectivity between Furness and west Cumbria. The Council must also secure the powers to make changes to existing highways.
- 16.2 As is noted in the Need for the Scheme section above, the A595 Grizebeck Improvement Scheme will:
- Provide strategic north-south connectivity between Furness and west Cumbria through improved journey times and better journey time reliability
 - Facilitate access to centralised local goods and services for a widely dispersed and rural population
 - Enhance resilience of the road to withstand severe weather events and preserve its function as an Emergency Diversion Route (EDR) for the Strategic Road Network during periods of closure on the A590, between Dalton-in-Furness and Greenodd
 - Reduce severance and accidents and improve amenity for pedestrians and cyclists, whilst enhancing the local environment.

17. Financial - What Resources will be needed and how will it be Funded?

- 17.1 The recommendations of this report are to seek Leader approval to acquire by agreement the land and new rights over land needed to allow the construction,

of the A595 Grizebeck Improvement scheme, as well as the making of a CPO and SRO. The cost of the land and new rights purchased and any potential public inquiry which may be held if there are objections to the Orders would be funded from the overall project budget of £23.292m.

17.2 The table below breaks down the project budget of £23.292m.

Table 1 Funding Breakdown

	£m
CLEP	2.244
CCC approved	1.518
Allocated funding	3.762
DfT(subject to FBC)	12.718
CCC (agreed to be vired)	2.603
CCC	4.209
Total	23.292

17.3 The resources required to support the land acquisition and Statutory Orders Process will be through existing, Planning, Capital, Legal and Finance teams, with external legal and project support funded from the current budget of £3.762m

17.4 Should the Leader not approve the recommendations the Council could be in breach of the CLEP funding which could result in the clawback of grant payments received at that point which would need to be met from existing Council Resources.

18. Legal Aspects – What needs to be considered?

18.1 The Leader of the Council is authorised by the Cabinet Procedure Rules (Part 5B of the Constitution, paragraph 1.1) to “undertake any of the functions of the Cabinet himself/herself”.

18.2 If the Leader decides and agrees to the recommendations in this report, it will give authorisation and approval to the steps required to continue with the A595 Grizebeck Improvement Scheme. Such a Leader decision will not bind the Council to continue with the A595 Grizebeck Improvement Scheme but will be an important step in progressing it.

18.3 The recommended decision has been advertised on the Forward Plan as required. Therefore, it is appropriate for the Leader to consider this report and agree to the recommendations.

18.4 Any other legal considerations are detailed above.

19. LGR Implications

19.1 It is to be noted that this programme will be impacted by the Local Government Reorganisation for the county of Cumbria. From the planned vesting date on 1

April 2023, Cumbria County Council together with six other local councils will cease to exist and they will all be replaced by two new separate unitary authorities. For the geographical area of south Cumbria which includes the Grizebeck scheme, the new unitary authority will be the Westmorland and Furness Council. Although there is a shadow authority for the new Westmorland and Furness Council already in place at the time of writing this report, it will only take over the functions of Cumbria County Council from 1 April 2023. Such functions for the new unitary authority are expected to include the same statutory powers for a Highway Authority as Cumbria County Council; and the new unitary authority is expected to be capable of making further progress with the CPO (together with the accompanying SRO), notwithstanding that the Council will have made and published the Orders prior to 1 April 2023.

19.2 In relation to the Grizebeck Improvement Scheme, on 15 August 2022 the Council consulted with the Cabinet members of Westmorland and Furness Shadow Authority who agreed in principle to the funding commitment for the project and supported the Council in continuing to progress the project including: -

- The award of stage 1 (detailed design and FBC submission) of the D&B contract; and
- Proceeding with the CPO for assembly of the land required for the project

20. Health and Safety Aspects - What needs to be considered?

20.1 The County Council has a responsibility under the Health & Safety at Work Act 1974 and associated Management of Health & Safety at Work Regulations to ensure, as far as is reasonably practicable, that there are arrangements in place to ensure a healthy and safe working environment for all services for which it has responsibility

20.2 Although there are no direct health and safety implications arising from this report which focuses on Land Acquisition, Compulsory Purchase Order and Side Roads Order actions, if approved by the Leader, the County Council or new unitary authority will take responsibility for the construction of the A595 Grizebeck Improvement Scheme and the associated construction.

20.3 The County Council or new unitary authority will therefore need to work with construction contractors following Construction & Design Management (CDM 2015) regulations to ensure that adequate health and safety provisions are in place throughout the development and delivery phases of the project in line with the commitments outlined in the County Council Annual Health, Safety & Wellbeing Policy Statement last agreed by Cabinet in July 2022.

21. Council Plan Priority – How do the Proposals Contribute to the Delivery of the Council’s Stated Outcomes? (Outcomes - People in Cumbria are Healthy and Safe, Places in Cumbria are well connected and thriving, the Economy in Cumbria is growing and benefits everyone)

21.1 Delivery of the A595 Grizebeck Improvement Scheme will have an important role in supporting the delivery of the Council Plan outcomes:

- The economy in Cumbria is growing and benefits everyone – The A595 Grizebeck Improvement Scheme will improve north south connectivity thereby facilitating economic growth in West Cumbria.
- Places in Cumbria are well-connected and thriving – The A595 Grizebeck Improvement Scheme will improve north south connectivity and promote thriving communities and businesses.
- People in Cumbria are healthy and safe – The A595 Grizebeck Improvement Scheme will promote healthy travel choices including walking and cycling provision from the south in Chapels to the north in Grizebeck village centre with links into existing cycling and walking networks.

22 What is the Impact of the Decision on Health Inequalities and Equality and Diversity Issues?

22.1 As part of the assessment process for the A595 Grizebeck Improvement Scheme an Equalities Impact Assessment (EqIA) has been carried out by the Council. Stage 2 of the EqIA assessed the level of impact of the Grizebeck Improvement Scheme on protected characteristic groups, in the context of the PSED objectives to which the Council must have regard in carrying out its statutory functions. The Stage 2 EqIA identified that the Grizebeck Improvement Scheme would, during its construction and operational phases, have ‘neutral’ impacts on the majority of protected characteristics groups. In relation to the protected characteristic groups for age, disability and pregnancy and maternity, there could potentially be negative impacts either during the construction or the operation of the Grizebeck Improvement Scheme, but these are considered to be outweighed by the wider benefits the scheme will introduce. In the EqIA, it is stated that any negative impacts identified could be mitigated further in some cases through the detailed design process, details of which are provided in Chapter 7 of the EqIA. These mitigation measures would be considered and developed initially through Stage 3 of the EqIA – monitoring and action planning and monitoring which has still to get underway as part of the next stage of the scheme design process.

22.2 As a result, the overall assessment together with the proposed Stage 3 Action Plan and monitoring proposals as documented in the EqIA will ensure there are no differential impacts of the Grizebeck Improvement Scheme for different social groups. The impact of the Grizebeck Improvement Scheme will continue to be monitored and reviewed throughout the promotion and implementation of

the Orders to ensure that any impacts can be considered and mitigated as necessary.

22.3 The A595 Grizebeck Improvement Scheme development process to date has included two 4-week periods of public consultation to reflect good practice and the outcomes of this consultation have influenced the design of the scheme. The first public consultation period was during October/November 2018 and was held to consider possible route options. The second public consultation period was June/July 2021 to gather feedback on the latest design prior to the submission of a planning application.

Appendices

- Appendix 1 – A595 Grizebeck Improvement Scheme CPO Maps
- Appendix 2 – A595 Grizebeck Improvement Scheme SRO Plans
- Appendix 3 – Statement of Reasons
- Appendix 4 – Equality Impact Assessment

Key Facts

Electoral Division: High Furness

Executive Decision	Key Decision Included in Forward Plan	Exempt from call-in	Exemption agreed by scrutiny chair	Considered by scrutiny, if so detail below	Environmental or sustainability assessment undertaken?	Equality impact assessment undertaken?
Yes	Yes	No	No	No	Yes	Yes

Approved by the relevant Cabinet Member/s on 20th September 2022.

Previous relevant Council or Executive decisions

- A595 Grizebeck Improvements Cumbria Local Enterprise Partnership Growth Deal Funding Award of £2.244m – 11 November 2020
- A595 Grizebeck Improvement – Programme Entry: DfT Major Road Network Schemes Programme Funding Award of £12.718m (dependent on subsequent FBC approval) – 27 October 2020
- £2.244m CLEP Growth Deal Funding added into the Capital Programme for 2020/21 to 2022/23 - Cabinet 4 February 2021

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Executive member Consultation

Name: Stewart Young, Leader of the Council and

Keith Little, Cabinet Member for Highways and Transport

Details of any registrable interest relevant to the decision: None

Details of any dispensation granted: None

Key Decisions

Notice on Forward Plan? Yes

Rule 15 Notice? NA

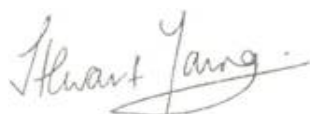
Rule 16 Approval by Chair of Scrutiny Board? NA

Exempt from Call in? No

Decision

Signature of the decision record authorises the implementation (following expiry of the Call In period where applicable) of the recommendations in Section 2.

Signature of decision maker:



Name: Stewart Young

Post title: Leader of the Council

Date: 14 October 2022

Delegated authority to make the decision:

Cabinet Procedure Rules (Part 5B of the Constitution, paragraph 1.1)