



## **CABINET 27TH NOVEMBER 2019**

**SUBJECT: HAFOD-YR-YNYS AIR QUALITY PROJECT – COMPULSORY PURCHASE ORDER, LAND AND BUILDINGS AT WOODSIDE TERRACE, HAFOD YR YNYS**

**REPORT BY: INTERIM CORPORATE DIRECTOR, COMMUNITIES**

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### **1. PURPOSE OF REPORT**

- 1.1 To seek Cabinet approval for the making and implementation of a Compulsory Purchase Order to acquire all interests in the land and buildings known as 1- 20 Woodside Terrace, 1 & 2 Woodside Shops and Yr Adfa at Hafod-yr-ynys Road (as denoted on the map in Appendix 1) (“the Site”) together with ancillary rights to achieve compliance with the Air Quality Direction 2019 and the EU Ambient Air Quality Directive (2008/50/EC) in the shortest possible time.

### **2. SUMMARY**

- 2.1 The national nitrogen dioxide air quality objectives are being exceeded at receptor locations on Hafod-yr-ynys Road. In February 2018 Welsh Government issued an Air Quality Direction to Caerphilly CBC to undertake a feasibility study for the area and to determine a preferred option or basket of options which will achieve compliance with the Ambient Air Quality Directive (2008/50/EC) air quality limit values for nitrogen dioxide in the ‘shortest possible time’.
- 2.2 On 26<sup>th</sup> June 2019 Cabinet approved its final air quality plan for Hafodrynys Road for submission to Welsh Government. The plan included the preferred option of purchase and demolition of the properties at 1-20 Woodside Terrace, 1&2 Woodside Shops and Yr Adfa on the south side of the A472 together with re-alignment of the footway for achieving compliance with the Ambient Air Quality Directive (2008/50/EC) at Hafod-yr-ynys. On the 31st July 2019, Welsh Government issued a new Direction to Caerphilly County Borough Council, in accordance with the ‘Environment Act 1995 (Feasibility Study for Nitrogen Dioxide Compliance) Air Quality Direction 2019’. The Direction stated that the demolition option should proceed immediately and without delay.
- 2.3 Whilst many of the residents at the Site have shown willingness to voluntarily dispose of their interests in the Site to the Council, a Compulsory Purchase Process is required to ensure the preferred option is delivered within project time scales and compliance is achieved with the Air Quality Direction 2019 and the EU Ambient Air Quality Directive (2008/50/EC) in the shortest possible time.

### **3. RECOMMENDATIONS**

- 3.1 That Cabinet authorise the making of a Compulsory Purchase Order (CPO) pursuant to statutory powers contained in section 226 of the Town and Country Planning Act 1990 (as amended), and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 to acquire all interests and rights within the land and buildings edged red on the plan attached to this report at Appendix 1 and known as 1- 20 Woodside Terrace, 1 & 2 Woodside Shops and Yr Adfa at Hafod-yr-ynys Road for the purpose of implementing the scheme set out in this report to achieve compliance with the Air Quality Direction 2019 and the EU Ambient Air Quality Directive (2008/50/EC) in the shortest possible time.
- 3.2 Notwithstanding recommendation 3.1 above that, pending the making of the CPO, officers be authorised to continue negotiations to purchase the land and buildings identified in this report by agreement.
- 3.3 Delegate to the Head of Public Protection, Community, and Leisure Services authority to:
- i) agree and approve the final form of plans to be annexed to the CPO delineating the exact boundaries of the land and properties at the Site;
  - ii) to undertake appropriate land referencing work to identify all interests affected by the proposed order identified in the table of properties annexed at Appendix 2. Appendix 2 is attached as an item exempt from publication.
  - iii) to make amendments where necessary to the draft Statement of Reasons at Appendix 3.
- 3.4 To authorise the Head of Legal Services and Monitoring Officer:
- i) to make and seal the CPO and to submit the same to the Welsh Ministers for confirmation;
  - ii) sign all notices in connection with the CPO and, if objections are received, to take all actions in connection with the arrangement of a Public Inquiry and where necessary the appointment of Counsel to represent the authority;
  - iii) to serve notices to treat and enter and to take all other requisite steps pursuant to the compulsory acquisition procedures to obtain possession of the Site if it is considered appropriate to do so, and in conjunction with the Head of Property services to deal with any compensation issues, if necessary, by reference to the Lands Tribunal.
- 3.5 To authorise the Head of Public Protection, Community, and Leisure Services or the Head of Legal Services and Monitoring officer (as appropriate) to take any further actions required to make and implement the CPO and acquire all interests in the Site.

### **4. REASONS FOR THE RECOMMENDATIONS**

- 4.1 To ensure high levels of air pollution are addressed to mitigate any potential impacts on health and the environment and to comply with the statutory obligations of the local authority.
- 4.2 To ensure compliance with the Air Quality Direction served on the local authority and the Ambient Air Quality Directive (2008/50/EC) in the shortest possible time.

## **5. THE REPORT**

### **5.1 Background**

The national nitrogen dioxide air quality objectives are being exceeded at receptor locations on Hafod-yr-ynys Road. In February 2018 Welsh Government issued an Air Quality Direction to Caerphilly CBC to undertake a feasibility study for the area and to determine a preferred option or basket of options which will achieve compliance with the Ambient Air Quality Directive (2008/50/EC) air quality limit values in the 'shortest possible time'.

5.2 The completed Feasibility Report was approved by Cabinet in June 2019, and thereafter submitted to Welsh Government. The report concluded that the preferred option to achieve compliance in the shortest possible time was to demolish the buildings at the Site with re-alignment of the footway.

5.3 On the 31<sup>st</sup> July 2019, Welsh Government issued a new Direction to Caerphilly County Borough Council, in accordance with the 'Environment Act 1995 (Feasibility Study for Nitrogen Dioxide Compliance) Air Quality Direction 2019'. The Direction states that the demolition option should proceed immediately and without delay, on the basis assessments completed to date show this is the most likely option to achieve the legal requirement with strong modelled reductions in nitrogen dioxide and the potential to reduce below the threshold. However, further modelling and assessment of the demolition option and complementary measures should also be undertaken.

5.4 Demolition of the buildings will need to be preceded by the Council acquiring the properties and land through a voluntary acquisition or compulsory purchase process. Many of the residents have agreed to dispose of their interests in the site by negotiation with the authority, however a compulsory purchase process is required to ensure the preferred option of demolition and realignment of the footway is delivered within planned project timescales to ensure compliance with the EU Ambient Air Quality Directive(2008/50/EC) in the shortest possible time.

5.5 The scheme is a strategic priority for the Council and as mentioned previously is one required by Direction from Welsh Government. The work supports the Corporate Well-being Objectives, identified within the Council's Corporate Plan 2018-2023:

- WBO 4: Promote a modern, integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impacts on the environment
- WBO 5: Creating a county borough that supports a healthy lifestyle in accordance with the Sustainable Development Principle within the Well-being of Future Generations (Wales) Act 2015

5.6 The benefits of this scheme are numerous, the main ones being:

- It reduces high levels of pollution and as modelling predicts it will bring an area currently failing the air quality limits back in to compliance with the EU Ambient Air Quality Directive.
- By reducing the high levels of pollution, this will have a positive impact on the health and well-being of the remaining residents on the northern side of the A472 and those travelling through the area.

- The scheme will also benefit the environmental well-being of the area. Reducing high levels of pollution will mean that plants and eco-systems can thrive.
- The realignment of the footway provides an opportunity within the scheme for a new dual use path which will take members of the public away from an area with current high levels of pollution in to a safe area that can be utilised for both cycling and walking.
- The scheme will improve the visual amenity of the area at Hafod-yr-ynys Road for both residents remaining on the northern side of the A472 and visitors to the borough.
- Local people may be able to gain temporary employment opportunities through the project.

### 5.7 **Current Position**

The buildings at the Site are owned by a number of different people. The local authority's principal valuer has valued the assets concerned and all valuations have been independently verified by the District Valuer. The local authority has already commenced negotiations with some of the residents as they have found alternative accommodation and are keen to conclude matters.

- 5.8 The demolition of buildings and realignment of the footway has to be completed by December 2021 and it is imperative that the project remains within the defined timescales to achieve that deadline. It is for this reason that a compulsory purchase process is required so that the local authority are able to stipulate definitive timescales in which we can take control of the properties / land to ensure the project remains on schedule. The consequences of not delivering within the timescales stipulated could mean a further Direction from Welsh Government or potential litigation from external bodies.

### 5.9 **The Use of CPO**

A compulsory purchase order (CPO) allows certain bodies, 'the acquiring authority', (commonly local authorities) which need to obtain land or property, to do so without the consent of the owner. CPOs are granted to facilitate developments of public interest. The acquiring authority must be able to demonstrate that taking the land is necessary and that there is a 'compelling case in the public interest'.

- 5.10 The acquiring authority does not have the powers to compulsorily acquire land until the 'confirming authority' approves the CPO. In Wales the confirming authority is the Welsh Government. The acquiring authority can acquire by agreement at any time and should attempt to do so before acquiring by compulsion, which should be a last resort.
- 5.11 Compulsory purchase powers exist in many different pieces of legislation and are often specialised to the purpose for which an authority is seeking to acquire land. In this instance if approved, the order would be made under Section 226 of the *Town and Country Planning Act 1990*.
- 5.12 Section 226 of the *Town and Country Planning Act 1990* gives local authorities broad powers to acquire land compulsorily and is commonly used. The Circular on CPOs (14(2)/2004) advises that local authorities should use specific powers available for the purpose in mind and only general powers where unavoidable.

5.13 Section 226 of the *Town and Country Planning Act 1990* sets out circumstances under which compulsory purchase may be authorised:

(1) A local authority to whom this section applies shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area –

- (a) if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land;
- (b) which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.

5.14 It should be noted that a local authority must not exercise the power unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objectives –

- (a) the promotion or improvement of the economic well-being of their area;
- (b) the promotion or improvement of the social well-being of their area;
- (c) the promotion or improvement of the environmental well-being of their area.

Demolition of the site will support the above objectives, as detailed in paragraph 5.6.

5.15 The need for planning permission is currently being explored, and there is a strong likelihood that much of the work will be permitted development as an improvement to the highway as defined by the Town and Country Planning (General Permitted Development) Order 1995 as amended. A final decision in that respect will be taken once the scheme has been fully designed.

5.16 Should planning permission be needed, and without prejudice to the decision of the local planning authority, there are no obvious impediments to a consent being granted. The main issues would be the temporary impacts of the demolition works on the traffic flows on Hafodyrynys Road, and the control of noise and dust. In the longer term the impact of the remediation works, particularly any retaining structures or embankments would be the primary concern. The design of the scheme would take all of those matters into account as required by policies CW2 (amenity) and CW3 (highways) of the adopted Caerphilly County Borough Local Development Plan.

5.17 Since there is no specific power of acquisition for air quality purposes it is proposed that the general power contained in Section 226 above would be most appropriate. It will require the authority to undertake a scheme of demolition works and re-landscaping, and ancillary footway alignment, to improve the area. Officers have tested the proposed project against the legislative criteria set out in paragraph 5.11 and 5.12 above and believe that there is a justifiable rationale for using CPO powers in this instance. Additionally, paragraph 7 below provides links to the relevant Council policies which will be met by carrying out the scheme of works following compulsory acquisition of the Site.

5.18 There is a requirement for the use of CPO powers to be used at Hafod-yr-ynys Road in order to protect the health and well-being of the residents, to improve the environmental well-being of the area and to ensure that compliance is achieved with the Ambient Air Quality Directive (2008/50/EC) in the 'shortest possible time'. Without these powers being enacted simultaneously with a process of voluntary acquisition, should there be delay in finalising negotiations and they become protracted, there is likelihood that this key project identified within the Hafod-yr-ynys Feasibility Study will not be delivered on time.

## 5.19 **Conclusion**

The draft Statement of Reasons sets out in detail the rationale and justification for the scheme of demolition, including how this meets the authority's air quality ambitions, resulting in substantial public benefits. There is a compelling case in the public interest for compulsory acquisition to justify interference with human rights of those with an interest the Site in the event that acquisition by agreement cannot be delivered in a timely manner.

## 6. **ASSUMPTIONS**

- 6.1 Based on information obtained to date, it is assumed that Welsh Government will award funding based on the Compensation Code (equivalent to 130% of the market value of the property), which does not include discretionary well-being top-up payments. There will be a deficit in funding of approximately £269k, which will be funded from ring-fenced under-spend within the Environmental Health budget for 2019/20 which was reported to and approved by Cabinet on 16th October 2019.

## 7. **LINKS TO RELEVANT COUNCIL POLICIES**

- 7.1 Local Air Quality Management (LAQM) is a statutory requirement. Addressing air quality contributes to the Caerphilly Public Services Board Well-being Plan 2018-2023, supporting the Positive Change, Positive People and Positive Places objectives.
- 7.2 The work also supports the following Corporate Well-being Objectives, identified within the Council's Corporate Plan 2018-2023:
- WBO 4: Promote a modern, integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impacts on the environment
  - WBO 5: Creating a county borough that supports a healthy lifestyle in accordance with the Sustainable Development Principle within the Well-being of Future Generations (Wales) Act 2015
- 7.3 Addressing air quality contributes to the following Well-being goals within the Well-being of Future Generations Act (Wales) 2015:
- A prosperous Wales
  - A resilient Wales
  - A healthier Wales
  - A more equal Wales
  - A Wales of cohesive communities
  - A globally responsible Wales

## 8. **WELL-BEING OF FUTURE GENERATIONS**

- 8.1 Local Air Quality Management contributes to the Well-being Goals as set out in the Links to Strategy above. The service's activity in this regard is consistent with the five ways of working as defined within the sustainable development principle in the Act in that it is focussed on preventing harm to public health. The service follows a statutory process in relation to Local Air Quality Management and uses a range of strategies, activities and interventions that ensure an integrated and balanced approach to

service delivery. This process seeks to balance the need for proactive intervention programmes with the need to promote, educate and inform both key stakeholders and the public; collaborating with them to promote and improve air quality over the long term.

## **9. EQUALITIES IMPLICATIONS**

- 9.1 The equalities implications associated with the Final Plan have been considered and all protected groups will gain positive health benefits from reductions in nitrogen dioxide levels. An Equalities Impact Assessment has been developed for the demolition proposal within the Hafod-yr-ynys Final Plan and it is assumed that all residents will benefit equally from the proposed financial protections afforded to them under the proposed acquisition mechanism.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 Welsh Government has agreed in principle to fund the acquisition of properties in accordance with the Compensation Code with funding totalling circa £2.502k. However, valuations indicate that the cost of purchasing all the properties in question at 150% of market value, with a 10% home loss payment (where appropriate) will amount to circa £2.770k. A report was agreed by the Council's Cabinet on 16th October 2019 to ring fence Environmental Health underspend for 19/20 to fund the shortfall of circa £269k.

## **11. PERSONNEL IMPLICATIONS**

- 11.1 There are no personnel implications arising from this report.

## **12. CONSULTATIONS**

- 12.1 This report has been sent to the Consultees listed below and all comments received are reflected in this report.

## **13. STATUTORY POWER**

- 13.1 Environment Act 1995  
European Ambient Air Quality Directive (2008/50/EC)  
Local Government Act 2000  
Town & Country Planning Act 1990

## **14. URGENCY**

- 14.1 The decision will be subject to the "call-in" procedure.

Author: Maria Godfrey, Team Leader Pollution Control and Emergency Planning & Resilience

Consultees: Cllr Eluned Stenner, Cabinet Member for Environment and Public Protection

Cllr Sean Morgan, Deputy Leader and Cabinet Member for Economy, Infrastructure, Sustainability and Well-being of Future Generations  
Councillor Carl Thomas, Crumlin Ward Member  
Councillor Mike Davies, Crumlin Ward Member  
Cllr. D.T. Davies – Chair of Environment & Sustainability Scrutiny Committee  
Cllr. A. Hussey - Vice Chair of Environment & Sustainability Scrutiny Committee  
Ceri Edwards, Environmental Health Manager  
Mark S. Williams, Interim Corporate Director Communities  
Robert Hartshorn, Head of Public Protection, Community and Leisure Services  
Marcus Lloyd, Head of Infrastructure  
Rhian Kyte, Head of Regeneration & Planning  
Rob Tranter, Head Of Legal Services and Monitoring Officer  
Steve Harris, Head of Corporate Finance and S.151 Officer  
Mark James, Principal Valuer  
Richard Crane, Senior Solicitor  
Anwen Cullinane, Senior Policy Officer (Equalities and Welsh Language)  
Shaun Watkins, HR Manager  
Mike Eedy, Finance Manager  
Paul Adams, Senior Assistant Accountant

Background Papers:

Environment Act 1995 (feasibility Study for Nitrogen Dioxide Compliance) Air Quality Direction 2018, dated 15<sup>th</sup> February 2018  
Environment Act 1995 (feasibility Study for Nitrogen Dioxide Compliance) Air Quality Direction 2019, dated 29<sup>th</sup> July 2019  
Hafod-yr-ynys Final Plan  
Hafod-yr-ynys Feasibility Study (WeITAG Stage 1 and 2)

Appendix 1 – Map of Area for CPO  
Appendix 2 – Table of Properties and interests  
Appendix 3 – Statement of Reasons





- Legend:**
- Plot Boundaries
  - Title
  - Rights
- Notes:**
1. Plots 4, 18, 21 and 23 are unregistered. Title extent shown is currently assumed pending receipt of certified deeds to these plots.
  2. It is not known if the plot currently indicated as plot 24 is actually part of plot 23 or whether it is a separate parcel of unregistered land. Pending receipt of certified deeds to plot 23.
  3. There are anomalies in CCBC titles WAB87360 and WA781434. The gaps between the titles may need to be added to the CPO.
  4. Confirmation required whether northern half of unnamed stream abutting CCBC title CYM582180 needs to be added to CPO. It is currently assumed CCBC has riparian ownership of the northern half width of the unnamed stream over the length of the stream shown in title CYM582180.
  5. For landownership details refer to TH1243 - SK02.

**Revisions**

Rev	Date	Author	Description
A	Nov 19KD		Plot 26 amended
B	Nov 19KD		Appendix One added
C	Nov 19KD		Additional plot no 28 added.

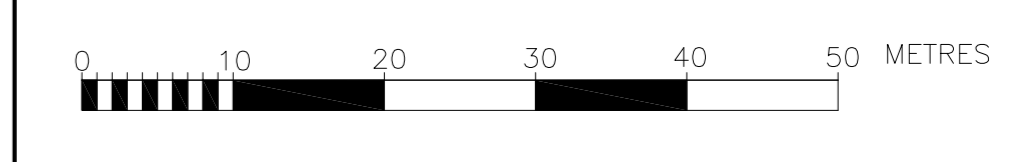


**ENGINEERING PROJECTS GROUP**  
ENGINEERING CONSULTANCY

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project title  
Hafodyrnyrs Hill, Demolition and Broadwalk Provision

drawing title  
DRAFT CPO  
Land Reference Plan  
**APPENDIX ONE**

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scale	date	drawn	checked
1:500 @A0	Oct 19	KD	
project ref.	drawing no.	rev.	
TH1243	07	C	

APPROVAL  COMMENT  INFORMATION   
DRAFT  TENDER  CONTRACT  AS CONSTRUCTED

No. on Map	Extent, Description and Situation of the Land	Qualifying persons under Section 12(2)(a) of the Acquisition of Land Act 1981 - name and address				Requirement (Title, s250 Right, Licence)	Remarks	Name	Description of Interest to be acquired	Remarks
		Owners or Reputed Owners	Lessess or Reputed Lessees	Tenants or Reputed Tenants (other than Lessess)	Occupiers					
1	515.088 sqm Property known as Yr Adfa (formally Bognor House), Hafod-Yr-Ynys Road, Crumlin, NP11 5EQ, together with garden thereto.								All interests	Note CCBC have a right to access part of the land.
2	188.251 sqm Property known as Lynbrook, 1 Woodside Shops, Hafod-Yr-Ynys Road, Crumlin, NP11 5EU, together with garden thereto.				Lessee				All interests	
3	251.051 sqm Property known as 2 Woodside Shops, Hafod-Yr-Ynys Road, Crumlin, NP11 5EU, together with garden thereto.				Owner				All interests	

4	XX.XX sqm Property known as 1 Woodside Terrace, Crumlin, NP11 XXX, together with garden thereto.	unregistered			Owner				All interests	
4	Property known as 1 Woodside Terrace, Crumlin, NP11 5EW together with garden thereto				Owner					
5	191.944 sqm Property known as 2 Woodside Terrace, Crumlin, NP11 5EW, together with garden thereto.				Owner				All interests	
6	177.762 sqm Property known as 3 Woodside Terrace, Crumlin, NP11 5EW, together with garden thereto.				Owner				All interests	

7	170.609 sqm Property known as 4 Woodside Terrace, Crumlin, NP11 5EW , together with garden thereto.								All interests	
8	187.539 sqm Property known as 5 Woodside Terrace, Crumlin, NP11 5EW , together with garden thereto.				Owner				All interests	
9	194.219 sqm Property known as 6 Woodside Terrace, Crumlin, NP11 5EW, together with garden thereto.				Unoccupied				All interests	
10	201.676 sqm Property known as 7 Woodside Terrace, Crumlin, NP11 5EW , together with garden thereto.				Owner				All interests	

11	206.487 sqm Property known as 8 Woodside Terrace, Crumlin, NP11 5EW , together with garden thereto.				Owner				All interests	
12	224.311 sqm Property known as 9 Woodside Terrace, Crumlin, NP11 5EW, together with garden thereto.				Owner				All interests	
13	217.858 sqm Property known as 10 Woodside Terrace, Crumlin, NP11 5EW, together with garden thereto.				Owner				All interests	
14	194.143 sqm Property known as 11 Woodside Terrace, Crumlin, NP11 5EW, together with garden thereto.				Owner				All interests	



19	191.436 sqm Property known as 16 Woodside Terrace, Crumlin, NP11 5EW, together with garden thereto.				Owners				All interests	
20	198.298 sqm Property known as 17 Woodside Terrace, Crumlin, NP11 5EW, together with garden thereto.				owner				All interests	
21	XX.XX sqm Property known as 18 Woodside Terrace, Crumlin, NP11 5EW, together with garden thereto.				unoccupied				All interests	
22	200.683 sqm Property known as 19 Woodside Terrace, Crumlin, NP11 5EW, together with garden thereto.				owner				All interests	

23	XX.XX sqm Property known as 20 Woodside Terrace, Crumlin, NP11 5EW, together with garden thereto.	unregistered			unoccupied				All interests	
24	84.312 sqm Land situated east of no 20 Woodside Terrace, lying south of Hafod Yr Ynys Road and north of unnamed stream.	unregistered			unoccupied				All interests	
25	702.940 sqm Northern half width of unnamed stream, lying south of properties on southern side of Hafod Yr Ynys Road (Yr Adfa (formally Bognor House) to number 20 Woodside Terrace) and continuing to junction with private road leading to Llwynna - wen Farm.	unregistered			unoccupied				All interests	



26	503.937 sqm Southern half width of unnamed stream, lying south of properties on southern side of Hafod Yr Ynys Road (Yr Adfa (formally Bognor House) to number 20 Woodside Terrace) and continuing to junction with private road leading to Llwyna - wen Farm, abutting heavily wooded land lying to the south.									The right to construct water course erosion protection measures to the Northern side of the unnamed stream and the right of access for the purpose of felling trees for the purpose of constructing a new footway and the right to inspect and maintain any structures constructed thereafter.
27	46.821 sqm Southern half width of unnamed stream, lying south of properties on southern side of Hafod Yr Ynys Road (Yr Adfa (formally Bognor House) to number 20 Woodside Terrace)									The right to re - construct the retaining wall to the north of the inlet structure situated south of Yr Adfa (formally Bognor House) and the right to inspect and maintain any structures constructed thereafter.
28	46.821 sqm Southern half width of unnamed stream, lying south of properties on southern side of Hafod Yr Ynys Road (Yr Adfa (formally Bognor House) to number 20 Woodside Terrace)					Unoccupied				All interests

## HYY CPO

### Statement of Reasons

#### 1.0 Description and Location of the land

- 1.0 The land subject to this order lies south of the A472 (Hafod-yr-ynys Road) approximately 0.26 miles to the east of Crumlin and approximately 0.6 miles west of Hafod-yr-yns. The land use is currently mainly residential.
- 1.1 The majority of properties that need to be acquired are situated in a continuous block to the south of Hafod-yr-ynys Road, comprising Nos 1 to 20 Woodside Terrace (Ref. Nos. 4 to 23 on the CPO plan).  
In addition there is a detached property, Yr Adfa (ref. no 1 on the CPO plan) and two semi- detached properties, nos 1 & 2 Woodside Shops (ref. nos 2 & 3 on the CPO plan). These properties are also situated to the south of Hafod-yr-ynys Road. The land comprised in the proposed Compulsory Purchase Order also includes land that lies between the residential boundaries and an unnamed watercourse (ref. no 25 on the CPO plan).
- 1.2 The land comprised in the proposed Compulsory Purchase Order also includes a small parcel of land in unknown ownership being an area of steeply sloping embankment situated immediately to the east of no 20 Woodside Terrace. (CPO plan ref 24).
- 1.3 The proposed CPO includes rights of access in order to construct a retaining wall to the inlet structure to the unnamed water course (CPO plan ref 27) and also rights of access in order to construct water course erosion protection measures (CPO plan ref 26).
- 1.4 Finally, there is a parcel of land included within the CPO (CPO plan ref 28) which, upon final design, maybe required for the construction of the supporting structure for the board walk. There may also be a requirement to move the access track to the culvert inlet structure.

## 2.0 **Enabling Power**

- 2.1 Section 226 of the Town and Country Planning Act 1990 (as amended), and section 13 of the Local Government (Miscellaneous Provisions) Act 1976

## 3.0 **Purpose**

- 3.1 The land is required to enable CCBC to comply with a Direction (the 'Environment Act 1995 (Feasibility Study for Nitrogen Dioxide Compliance) Air Quality Direction 2019') issued to Caerphilly County Borough Council by Welsh Government.
- 3.2 The national nitrogen dioxide air quality limit values are being exceeded at receptor locations on Hafod-yr-ynys Road. In February 2018 Welsh Government issued an Air Quality Direction to Caerphilly CBC to undertake a feasibility study for the area and to determine a preferred option or basket of options which will achieve compliance with the Ambient Air Quality Directive (2008/50/EC) air quality limit values in the 'shortest possible time'.
- 3.3 On the 31st July 2019, Welsh Government issued a new Direction to Caerphilly County Borough Council, 'Environment Act 1995 (Feasibility Study for Nitrogen Dioxide Compliance) Air Quality Direction 2019'. The Direction stated that the demolition option should proceed immediately and without delay. At the meeting of the 1st August 2019, Cabinet previously approved implementation of its final plan and preferred option of purchase and demolition of the properties at 1-20 Woodside Terrace, 1&2 Woodside Shops and Yr Adfa on the south side of the A472 together with re-alignment of the footway for achieving compliance with the Ambient Air Quality Directive at Hafod-yr-ynys.
- 3.4 Whilst many of the residents at the Site have shown willingness to voluntarily dispose of their interests in the Site to the Council, a Compulsory Purchase Process is required to ensure the preferred option is delivered within project time scales and compliance is achieved with the Air Quality Direction 2019 and the EU Ambient Air Quality Directive in the shortest possible time.
- 3.3 The demolition of buildings and realignment of the footway has to be completed by December 2021 and it is imperative that the project remains within the defined

timescales to achieve that deadline. It is for this reason that a compulsory purchase process is required so that the local authority are able to stipulate definitive timescales in which the Council can take control of the properties and land to ensure the project remains on schedule.

#### 4.0 **The Scheme**

4.1 The scheme involves demolishing the properties that will be acquired through the CPO and re-alignment of the existing footway that currently runs adjacent to the properties.

4.2 The affected residents have been involved in the process throughout the course of the feasibility study and are aware that a CPO process will be undertaken alongside any voluntary acquisitions. Many of the residents have already made offers on alternative properties and have agreed to enter in to voluntary acquisition with the local authority.

4.3 Since there is no specific power of acquisition for air quality purposes it is proposed that the general power contained in Section 226 above would be most appropriate. It will require the authority to undertake a scheme of demolition works and re-landscaping, and ancillary footway alignment, to improve the area. Officers have tested the proposed project against the legislative criteria and believe that there is a justifiable rationale for using CPO powers in this instance. Additionally, the works contribute towards the Council policies listed below:

4.4 Local Air Quality Management (LAQM) is a statutory requirement. Addressing air quality contributes to the Caerphilly Public Services Board Well-being Plan 2018-2023, supporting the Positive Change, Positive People and Positive Places objectives.

4.5 The work also supports the following Corporate Well-being Objectives, identified within the Council's Corporate Plan 2018-2023:

- WBO 4: Promote a modern, integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impacts on the environment
- WBO 5: Creating a county borough that supports a healthy lifestyle in accordance with the Sustainable Development Principle within the Well-being of Future Generations (Wales) Act 2015

4.6 Addressing air quality contributes to the following Well-being goals within the Well-being of Future Generations Act (Wales) 2015:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A globally responsible Wales

4.7 The benefits of this scheme are numerous, the main ones being:

- It reduces high levels of pollution and will bring an area currently failing the air quality limits back in to compliance with the EU Ambient Air Quality Directive.
- By reducing the high levels of pollution, this will have a positive impact on the health and well-being of the remaining residents on the northern side of the A472 and those travelling through the area.
- The scheme will also benefit the environmental well-being of the area. Reducing high levels of pollution will mean that plants and eco-systems can thrive.
- The realignment of the footpath provides an opportunity within the scheme for a new dual use path which will take members of the public away from an area with current high levels of pollution in to a safe area that can be utilised for both cycling and walking.
- The scheme will improve the visual amenity of the area at Hafod-yr-ynys Road for both residents remaining on the northern side of the A472 and visitors in to the borough.
- Local people to gain temporary employment opportunities through the project.

## 5.0 **Planning position**

5.1 The need for planning permission is currently being explored, and there is a strong likelihood that much of the work will be permitted development as an improvement to the highway as defined by the Town and Country Planning (General Permitted Development) Order 1995 as amended. A final decision in that respect will be taken once the scheme has been designed.

5.2 Should planning permission be needed, and without prejudice to the decision of the local planning authority, there are no obvious impediments to a consent being granted. The main issues would be the temporary impacts of the demolition works on the traffic flows on Hafod-yr-ynys Road, and the control of noise and dust. In the longer term the impact of the remediation works, particularly any retaining structures or embankments would be the primary concern. The design of the scheme would

take all of those matters into account as required by policies CW2 (amenity) and CW3 (highways) of the adopted Caerphilly County Borough Local Development Plan

## **6.0 Government Policy Statements**

6.1 Welsh Government have issued a Direction which states that the scheme should proceed without delay.

## **7.0 Special Considerations affecting the land**

7.1 There are no special considerations such as listed buildings, SSSI's, consecrated land etc affecting the site. There are Welsh Water combined sewers which run through the site.

## **8.0 Obstacles and prior consents**

8.1 The site does not currently have planning consent for the scheme. As described above, there is currently ongoing consultation with the planning department. If planning permission is required a planning application will be submitted.

## **9.0 Human Rights**

The Council has considered the need for the scheme (i.e. the demolition of properties specified in item 1 above), in relation to the general rights, subject to the law of the individuals affected by the scheme, whether by the provisions of article 1 of the first protocol in schedule 1 of the Human rights Act 1998 or otherwise.

*Article 1 - Protection of property.*

*Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*

*The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.*

The Council considers there is a compelling case in the public interest for this scheme and that there are no feasible alternatives to the scheme as proposed that will achieve compliance with the 'Environment Act 1995 (Feasibility Study for

Nitrogen Dioxide Compliance) Air Quality Direction 2019' in the 'shortest possible time'. The Council therefore considers that general private property rights should give way to the public interest in this instance.