

**THE HIGHWAYS ACT 1980, THE ACQUISITION OF LAND ACT 1981, THE  
HIGHWAYS (INQUIRIES PROCEDURE) RULES 1994 AND THE  
COMPULSORY PURCHASE (INQUIRIES PROCEDURE) RULES 2007**

**PUBLIC INQUIRY INTO**

**THE WEST SUSSEX COUNTY COUNCIL (A284 LYMINSTER BYPASS  
(NORTH))**

**COMPULSORY PURCHASE ORDER 2020**

**and**

**THE WEST SUSSEX COUNTY COUNCIL (A284 LYMINSTER BYPASS  
(NORTH) CLASSIFIED ROAD)**

**(SIDE ROADS) ORDER 2020**

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**PROOF OF EVIDENCE**

**OF**

**NIGEL GODDEN**

**FOR**

**WEST SUSSEX COUNTY COUNCIL**

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**DFT REFERENCE: : NATTRAN/SE/HAO/229**

**July 2021**

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## **1. INTRODUCTION**

### **1.1. Qualifications and Experience**

- 1.1.1. I, Mr Nigel John Godden BSc MRICS and RICS Registered Valuer, am employed by WSP UK Ltd as Land and Property Director. I have over thirty years' experience supporting Acquiring Authorities in the acquisition of property required for their highway schemes whether by agreement or using compulsory purchase powers.
- 1.1.2. I can confirm that the contents of my proof of evidence are my professional opinion and are true to the best of my knowledge and belief and are gained from either my own direct involvement or my colleagues' direct knowledge.

### **1.2. Involvement with the Project**

- 1.2.1. WSP was appointed by West Sussex County Council on 16<sup>th</sup> July 2019, initially to support the Council with land referencing activity. On 4<sup>th</sup> October 2019 we were instructed to commence valuations, secure access to plots for survey purposes and open negotiations in respect of the acquisition of property required for the above scheme. As Land and Property Director, I am undertaking negotiations and supervising the WSP Estate Surveying team as regards their negotiations for property acquisition, temporary use and survey access on behalf of the County Council for all third party land interests required to deliver the A284 Lyminster Bypass (North) scheme, preferably by agreement. As regards this Proof of Evidence, my instructions are to provide evidence on the following matters:
  - (a) a description of land included within the Orders;
  - (b) a summary of the need for the Order Land including any new rights required;
  - (c) consideration of the justification for the use of compulsory purchase powers, with particular reference to the guidance in Circular 06/2004 ("the Circular"), and the replacement guidance issued 30 October 2015 ("the Replacement Guidance");
  - (d) a summary of negotiations with affected landowners to acquire by agreement;
  - (e) a summary of the objections and the response of the Acquiring Authority to these; and
  - (f) conclusions on the need for the Orders.

### **1.3. Scope of Evidence**

- 1.3.1. My evidence primarily relates to the need for a Compulsory Purchase Order (CPO) and the Side Roads Order (SRO) in order to assemble the land and rights necessary to facilitate the Scheme (which is

described in Section 2), together with the negotiations carried out with affected landowners, and negotiations with objectors. I also summarise the Acquiring Authority's response to the points raised in letters of objection to the Orders.

- 1.3.2. In carrying out my instructions I have been assisted by employees of the Acquiring Authority together with its professional advisors, some of whom are also providing evidence to the inquiry.
- 1.3.3. I refer to evidence to be presented by Mr Mark Martin, West Sussex County Council's Scheme Project Manager. Mr Martin sets out the background to the scheme, the approvals and funding that support the Scheme.
- 1.3.4. I refer to evidence to be presented by Mr Guy Parfect, a Senior Planner in the Council's Transport Planning and Policy Team. Mr Parfect will cover the background, history, and need for the Scheme, as well as traffic modelling related factors underpinning the Council's preferred route for the Scheme.
- 1.3.5. I refer to evidence to be presented by Mr Andrew Burrows, the head of the design team at Capita. Mr Burrows will cover the design of the Scheme and the mitigation.
- 1.3.6. I refer to evidence to be presented by Mr Tony Symonds, the design manager at Jacksons Civil Engineering, the Scheme Designer and Principal Designer for the Scheme. Mr Symonds will cover the construction requirements of the viaduct.
- 1.3.7. In my proof of evidence, specific abbreviations are noted in the text on first use.

## **2. THE LAND INCLUDED IN THE COMPULSORY PURCHASE ORDER**

- 2.1. The extent of the land to be acquired ("the CPO Land") is illustrated on the CPO Plans<sup>1</sup> ("the Order Plans") which are cross-referenced with the Schedule to the CPO<sup>2</sup>.
- 2.2. The CPO Land authorised to be purchased compulsorily under the CPO is shown coloured pink on the Order Plans. This includes both permanent and temporary acquisitions as detailed in the Schedule to the CPO<sup>2</sup>.
- 2.3. The new rights to be purchased compulsorily under the CPO are shown coloured blue on the Order Plans.
- 2.4. The CPO Land comprises (in the parishes of Lyminster and Crossbush and Littlehampton, in the County of West Sussex):-
  - a) Rights to enter upon approximately 3369 square metres of field and agricultural land, woodland, drain and watercourse to the west of A284 Lyminster Road to install, inspect and maintain environmental

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<sup>1</sup> Statement of Case supporting document [Nos 9](#) and [10](#)

<sup>2</sup> Statement of Case supporting document [No.1](#)

- mitigation measures and a replacement culvert for Brookfield Stream (Plot 1a)
- b) Rights to enter upon approximately 352 square metres of field and agricultural land, trees and hedgerow west of A284 Lyminster Road to install, inspect and maintain environmental mitigation measures (Plot 1b)
  - c) Title to approximately 136 square metres of field and agricultural land and trees west of A284 Lyminster Road either side of Brookfield stream (Plot 1c)
  - d) Title to approximately 7350 square metres of woodland, track, watercourse and field east of A284 Lyminster Road (Plot 2a)
  - e) Title to approximately 457 square metres of woodland east of A284 Lyminster Road (Plot 2b)
  - f) Title to approximately 211 square metres of woodland hedgerows and field east of A284 Lyminster Road (Plot 2c)
  - g) Title to approximately 224 square metres of woodland hedgerows and field east of A284 Lyminster Road (Plot 2d)
  - h) Title to approximately 3999 square metres of field and agricultural land, watercourse and drain east of A284 Lyminster Road (Plot 3a)
  - i) Title to approximately 694 square metres of field and agricultural land and watercourse east of A284 Lyminster Road (Plot 3b)
  - j) Title to approximately 2043 square metres of field and agricultural land east of A284 Lyminster Road (Plot 4a)
  - k) Rights to enter upon approximately 373 square metres of field and agricultural land east of A284 Lyminster Road to install, inspect and maintain acoustic fencing (Plot 4b)
  - l) Title to approximately 13973 square metres of field and agricultural land east of A284 Lyminster Road (Plot 5a)
  - m) Rights to enter upon approximately 1169 square metres of field and agricultural land east of A284 Lyminster Road to install, inspect and maintain acoustic fencing and environmental mitigation measures (Plot 5b)
  - n) Title to approximately 1902 square metres of field and agricultural land east of A284 Lyminster Road (Plot 5c)
  - o) Title to approximately 13964 square metres of field and agricultural land south-east of A284 Lyminster Road (Plot 6a)
  - p) Title to approximately 14875 square metres of field and agricultural land south-east of A284 Lyminster Road (Plot 6b)
  - q) Title to approximately 1380 square metres of field and agricultural land south-east of A284 Lyminster Road (Plot 6c)
  - r) Rights to enter upon approximately 1111 square metres of private track known as Woodcote Lane to allow access to A284 Lyminster Bypass (New Road) from the existing A284 Lyminster Road (Plot 7a)

- s) Title to approximately 13912 square metres of drain, field and agricultural land south-east of A284 Lyminster Road (Plot 8a)
- t) Title to approximately 2405 square metres of drain, field and agricultural land south-east of A284 Lyminster Road (Plot 8b)
- u) Title to approximately 419 square metres of field and agricultural land south of A284 Lyminster Road (Plot 8c)
- v) Rights to enter upon approximately 1353 square metres of field and agricultural land south of A284 Lyminster Road, to construct an access track between the A284 Lyminster Bypass (New Road) and the existing A284 Lyminster Road (Plot 8d)

2.5. The Council has given careful consideration to the need to include each parcel of land within the CPO Land. Without ownership of the CPO Land plots and rights over plots it is not possible to deliver the scheme as currently proposed.

2.6. **Modifications to the CPO**

2.6.1. The Council requests that the Secretary of State makes the modifications detailed below to the CPO as part of confirmation of the CPO. These modifications have been the subject of correspondence with the DfT dated: 10 December 2020<sup>3</sup>, 5 February 2021<sup>4</sup> and subsequent DfT / WSCC Correspondence.<sup>5</sup>

**Table 1: proposed modifications to the CPO**

Article 1c	Revise to read <b>"the provision of new means of access to premises in the vicinity of the route of the new and improved highways referred to in paragraphs a and b above in pursuance of The West Sussex County Council (A284 Lyminster Bypass (North) Classified Road) (Side Roads) Order 2020"</b>
Article 2 (1)	Revise the plan references to read respectively <b>"A284LY-CAP-GEN-00-DR-C-0208 Revision P13 and A284LY-CAP-GEN-00-DR-C-0209 Revision P09"</b>
The Schedule Table 1 Plot 10a	Amend the wording to refer to <b>commercial development land</b> instead of residential development land
The Schedule Table 1 Plot 10b	Amend the wording to refer to <b>commercial development land</b> instead of residential development land insert <b>"and working space for the construction of an embankment"</b>

<sup>3</sup> Statement of Case Document [No. 7](#)

<sup>4</sup> Statement of Case Document [No. 8](#)

<sup>5</sup> Appendix [Document A & B](#)

### 3. EXTENT OF ALTERATIONS INCLUDED IN SRO

- 3.1. The extent of the alterations required within the vicinity of the classified road known as A284 Lyminster Bypass North which the Council are proposing to construct is illustrated on the SRO Plans<sup>6</sup> ("the SRO Plans") and which are cross-referenced with the Schedule to the SRO<sup>7</sup>.
- 3.2. Stop up the length of highway described in the schedule and shown on the corresponding Site Plan by zebra hatching:
- i) Stop up the length of highway Public Bridleway No 2163, from a point 52 metres south-east of the eastern boundary of The Old Vicarage, Lyminster Road (A284), south-eastwards for a distance of 79 metres
- 3.3. Stop up each private means of access to premises described in the schedule and shown on the corresponding Site Plan by a solid black band:
- i) Stop up **private means of access A** - to a field in premises known as Brookfield on the east side of A284 Lyminster Road 800 millimetres north of Brookfield Stream
  - ii) Stop up **private means of access B** - access to a field, in premises known as Brookfield, located on the east side of A284 Lyminster Road, 75.3 metres north of the property Wolstanton House
  - iii) Stop up **private means of access C** - a vehicular right of way over Bridleway No 2163 a point 52 metres south-east of the eastern boundary of The Old Vicarage, Lyminster Road (A284), south-eastwards for a distance of 79 metres
- 3.4. Provide new means of access to premises at each location shown on a Site Plan by thin diagonal hatching:
- i) Provide **new means of access 1** along a private track at the end of Woodcote Lane for a distance of 213 metres
  - ii) Provide **new means of access 2** a field gate 43 metres south of BW 2163 and 22 metres to the west accessible from a western accommodation of the classified road
  - iii) Provide **new means of access 3** a field gate 42 metres south of BW 2163 and 27 metres to the east accessible from an eastern accommodation of the classified road
  - iv) Provide **new means of access 4** new means of access 166 metres east from the start of BW 2163 connecting to the western side of the classified road
  - v) Provide **new means of access 5** new means of access 275.9 metres east from the start of BW 2163 connecting to the eastern side of the classified road

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<sup>6</sup> Statement of Case supporting document [Nos 11, 12](#) and [13](#)

<sup>7</sup> Statement of Case supporting document [No.2](#)

- vi) Provide **new means of access 6** A field gate 48 metres north of BW 2163 and 31 metres to the east accessible from an eastern accommodation of the classified road
- vii) Provide **new means of access 7** 130 metres south of Brookfield Stream connecting to the eastern side of the classified road

3.5. The Council has given careful consideration to the need to stop up the highway and private means of access and the best options for new means of access. Save for clarifications as set out in paragraph 5.6 of the Statement of Case, without these alterations it is not possible to deliver the Scheme as currently proposed.

3.6. The Council requests that the Secretary of State makes modifications detailed below to the SRO as part of confirmation of the SRO. These modifications have been the subject of correspondence with the DfT dated: 10 December 2020<sup>8</sup>, 5 February 2021<sup>9</sup> and subsequent DFT / WSCC Correspondence.<sup>10</sup>

**Table 1: proposed modifications to the SRO**

The Schedule	Delete the words " <i>Highways to be Improved Lyminster Road (A284)</i> "
Article 1. (1)(a)	Delete section "(a)"
Article 1. (1)	Revise section "(b)" to " <b>(a)</b> "
Article 1. (1)	Revise section "(c)" to " <b>(b)</b> "
Article 1. (1)	Revise section "(e)" to " <b>(c)</b> "
Article 1. (2)	Delete Article 1. (2)
Article 1.	Revise "Article 1. (3)" to " <b>Article 1. (2)</b> "
Article 1.	Revise "Article 1. (4)" to " <b>Article 1. (3)</b> "
Article 1.	Revise "Article 1. (5)" to " <b>Article 1. (4)</b> "
Article 1. (2) as modified	Delete " <i>Each new highway is given a reference letter on a Site Plan, which is also placed in the said Schedule, and will be a road unless the word "footpath" "bridleway" or "cycle track" appears beneath its reference letter in that Schedule, in which case it will be a footpath bridleway or cycle track (as the case may be).</i> "
Article 1. (3) as modified	Revise "Article 1. (3)", as modified, to read " <b>Where a new access is to be provided in connection with the stopping up of a private means of access described in the said Schedule, its reference number is placed in the said Schedule opposite the description of that length.</b> "

<sup>8</sup> Statement of Case Document [No. 7](#)

<sup>9</sup> Statement of Case Document [No. 8](#)

<sup>10</sup> Appendix [Document A & C](#)



Order Plan 1 of 2: A284LY- CAP-HGN- 00-DR-C- 0240 Rev P09'	Revise "Private Means of Access to be Stopped Up" to " <b>Highways to be Stopped Up</b> " in the legend
The Schedule	Amend the wording for Access A under 'Private Means of Access to be Stopped up' to refer to <b>800 millimetres north of Brookfield Stream. Instead of 800 millimetres south of Brookfield Stream</b>
The Plan Folio	Add in the legend with appropriate demarcation " <b>Highway to be stopped up</b> "
Order Plan 2 of 2: A284LY- CAP-HGN- 00-DR-C- 0241 Rev P10	Annotate below the letter "(c)" in the top right inset " <b>see main plan</b> "
The Plan Folio	Under the heading 'Existing Highway Layout' the order of the third and fourth dotted/ dashed lines should be reversed
Order Plan 2 of 2: A284LY- CAP-HGN- 00-DR-C- 0241 Rev P10	Under the heading 'Existing Highway Layout' the order of the third and fourth dotted/ dashed lines should be reversed

#### 4. GUIDANCE PERTAINING TO THE ORDERS

- 4.1. The main guidance governing the CPO process is provided in 'Guidance on Compulsory purchase process and The Crichel Down Rules'<sup>11</sup>, which was updated in July 2019 ("the CPO Guidance").
- 4.2. The CPO guidance clearly sets out that the following must be shown by the Acquiring Authority (AA) (i.e. the Council), in order for a CPO to be confirmed:
  - A compelling case for acquisition in the public interest;
  - Evidence that the purposes for which the Order is made justify interfering with the human rights of those with an interest in the land affected;

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<sup>11</sup> Ministry of Housing, Communities and Local Government: Guidance on Compulsory Purchase Process and The Crichel Down Rules, July 2019.

- Evidence that the AA has a clear idea of how it intends to use the land which it is proposing to acquire;
  - Evidence that the AA can show that all the necessary resources are likely to be available to achieve that end within a reasonable timescale;
  - Evidence as to the sources of funding available for both acquiring the land and implementing the scheme for which the land is required and the timing of that funding becoming available; and
  - Evidence to show that the scheme is unlikely to be blocked by any physical or legal impediments to implementation, including the need for planning permission.
- 4.3. The remainder of this proof of evidence (in conjunction with the Statement of Case and the supporting proof of evidence by Mr Burrows, Mr Symonds, Mr Parfect and Mr Godden) aims to that the above criteria are met.

## **5. JUSTIFICATION FOR THE USE OF COMPULSORY PURCHASE POWERS**

- 5.1. The Council recognises that the CPO can only be made and confirmed if there is a compelling case in the public interest which justifies the compulsory acquisition of the land and rights sought to be acquired, in accordance with the CPO Guidance (paragraph 17).
- 5.2. The Council considers that there is a compelling case in the public interest for the provision of the scheme and hence the compulsory purchase which will facilitate it.
- 5.3. The scheme is proposed to significantly improve the road network in order to meet the transport needs associated with new development and reduce existing and future adverse environmental impacts in and around Lyminster.
- 5.4. The statement of case has already explained in detail the issues with the existing road network in this location. The scheme will address these, and contribute to unlocking significant transport, economic and social benefits, and will enable the realisation of important objectives in planning policy.
- 5.5. The route of the existing A284 runs through the villages of Lyminster and Wick with connections to other major highway routes such as the A259 and A29. Given the amount of traffic currently running along this corridor, and the impact which the development on the adjacent land north of Toddington lane, as well as the A284 Lyminster bypass (south) construction, will have on the existing highway infrastructure, the A284 Lyminster bypass (north) will alleviate the transport pressure at this location allowing traffic to bypass these villages and connect directly to Littlehampton strengthening the north-south links between Littlehampton and the A27 all the while supporting local objectives within the adopted Arun Local Plan.
- 5.6. It is undisputed that Littlehampton's local economy is in need of revitalisation. The development at Land North of Toddington Lane, Littlehampton will provide 1,260 new homes which in turn will provide for an additional 700 new jobs in the local area. The A284 Lyminster Bypass (North) is being constructed to support these vital economic benefits,

which form part of the strategic case for the scheme and the Arun Local Plan. The planning requirements to provide a new primary school, commercial and retail units plus significant areas of open space to support the development at Land North of Toddington Lane, Littlehampton will in addition provide a positive impact for the local community and these additions will be fundamentally supported by the A284 Lyminster Bypass (North). Without the A284 Lyminster Bypass (North) in place the proposed social and economic benefits caused by the development will not be adequately supported.

- 5.7. The A284 Lyminster Bypass (North) is supported by several planning policy objectives including within the NPPF, the West Sussex Transport Plan 2011 – 2026, the Arun District Council Local Plan and the Littlehampton Neighbourhood Plan as set out in detail in the Proof of Evidence of Guy Parfect. In particular planning policy calls for the promotion of sustainable transport, to deliver sufficient local housing, promoting a strong and competitive economy, promoting the vitality of local town centres and to provide local job opportunities through the provision of appropriate employment sites, better infrastructure, including road and rail access. It is clear that in order to facilitate these planning objectives and respond to the local social and economic need the A284 Lyminster Bypass (North) and additional highway infrastructure it will provide will be vital. The planning context and local need is further set out in Mr Martin's and Mr Parfect's Proofs of Evidence.
- 5.8. The Council considers that the private loss arising from the CPO does not outweigh the considerable benefits of the Scheme. Further, the affected landowners would be compensated for their loss with statutory compensation due.
- 5.9. The CPO and SRO will not have an excessive or disproportionate effect on the landholdings concerned. Landowners will be compensated for their loss. Plots which are affected by the acquisition of rights only will continue to enjoy the benefits of their land save for some limited interference with their rights. The land and rights to be acquired are limited to those which are needed for the scheme. The land and rights needed have been carefully considered throughout with land surveys and consultations with landowners and interested parties. Regard has been had to sensitive areas. The Council has worked hard to find appropriate solutions to issues of access and made the SRO to support the CPO.
- 5.10. The Council will attempt to continue discussions with owners of relevant interests who are willing to sell their interest by agreement. This approach of making the CPO and, in parallel, conducting negotiations to acquire land by agreement is in accordance with the CPO Guidance paragraph 17.
- 5.11. In addition to the compelling case in the public interest, the other tests in the CPO Guidance for compulsory purchase are met. In particular:
  - The purposes for which the CPO is made justify interfering with the human rights of those with an interest in the land affected.
  - The Council has a clear idea of how it intends to use the land which it is proposing to acquire. The design of the Scheme has been established

after optioneering, as further detailed in Mr Symonds' and Mr Burrow's Proofs of Evidence.

- The Council can show that all the necessary resources, including funding for both acquiring the land and implementing the Scheme, are likely to be available to achieve that end within a reasonable timescale. The Scheme is fully funded and this is explained in full detail within Mr Martin's Proof of Evidence.
- The Scheme is unlikely to be blocked by any physical or legal impediments to implementation, including the need for planning permission. The Scheme has planning permission. The Scheme is also embedded in planning policy.
- Genuine and meaningful negotiations have taken place and are continuing to take place with landowners.

5.12. The extent of the scheme to be disregarded for the purposes of assessing compensation in the 'no-scheme world' would include the A284 Lyminster Bypass (South) having no connection to the A27. The A284 Lyminster Bypass (South) is under construction by the developer Persimmon Homes, who are responsible for works and matters related to their scheme.

## **6. JUSTIFICATION FOR SIDE ROADS ORDER**

- 6.1. The SRO is necessary to facilitate the Scheme alongside the CPO.
- 6.2. In so far as the SRO stops up certain lengths of highway, another reasonably convenient route is available or will be provided before the highway is stopped up, diverted or improved (in accordance with s.14(6) of the Highways Act 1980). Once the new road, the A284 Lyminster Bypass (North), is available and open to public use the existing A284, as shown on the SRO drawing A284LYM-CAP-HGH-00-DR-C-0240 Revision P09, will be improved for pedestrian and cyclist users. The bypassed length of the A284 will be reclassified as B2284.
- 6.3. In so far as the SRO stops up certain private means of access to premises, another reasonably convenient means of access to the premises is available or will be provided in pursuance of an order made by virtue of s.125(1)(b) of the Highways Act 1980 (in accordance with s.125(3) of the Highways Act 1980). The SRO will secure the removal of three private accesses (referenced A, B and C in the SRO). Private accesses A and B will be stopped up and will be replaced by one new means of access combined with access rights on a freehold title as referenced 7 in the SRO and the accompanying plan. The one vehicular right of way access along public bridleway 2163 to be removed (referenced C in the SRO) will be replaced by the creation of two new means of access (referenced 4 and 5) in order to create the proposed A284 Lyminster Bypass (North) as shown on the drawing A284LYM-CAP-HGH-00-DR-C-0240 Revision P09.

## 7. NEGOTIATIONS TO ACQUIRE INTEREST AND RIGHTS

- 7.1. Consultation, notification, and communication with affected landowners took place from 1992 onwards, as noted in paragraphs 11.1ff of the Statement of Case. In October 2019 WSP were instructed to negotiate with all landowners, except plots 9a, 9b 10a and 10b (Persimmon Homes and T&L Crawley No2 respectively). Following our appointment, letters were sent to each landowner on 29<sup>th</sup> November 2019 advising of our instruction to open negotiations for the acquisition of each plot in advance of the confirmation of the Compulsory Purchase Order. In January and March 2020 WSP were asked to open discussions with T&L Crawley No2, and Persimmon Homes respectively, initially this was to arrange access for ecology surveys. We have since been in negotiation with these landowners around the acquisition and temporary use of land as required under the CPO.
- 7.2. The detail of our discussions are outlined in Negotiations Communications Log<sup>12</sup>. Detail on individual landowner negotiations is provided as follows.
- 7.3. Mr and Mrs J Harriott (plots 1a and 1b):
- 7.3.1. No objection to the CPO has been made.
- 7.3.2. Following a meeting on 20<sup>th</sup> September 2019 with David Harriott to explain the proposals and advance negotiations it was agreed in October 2019 that the western extent of land required for the erection of bat and bird boxes in CPO Plot 1 would not extend beyond the tree line in order to avoid affecting the existing fencing along this part of the landowners' boundary. It was also confirmed that the Council did not intend to remove the hedgerow North of Brookfield Stream. Consideration was also given to the new bellmouth entrance construction that the landowner intended for their property. Due to this being outside the redline boundary the Council was not able to assist. Discussions have been ongoing and the Council has requested certain follow up information from the landowners' agent.
- 7.4. Mrs R Andrew, HCC 2011 Ltd and Ricotte Investments Ltd (plots 2a, 2b, 2c, 2d, 3a and 3b):
- 7.4.1. In respect of plots 2 and 3 and the landowners HCC 2011 Ltd (previously Hargreaves Construction Co. Ltd), Mrs R Andrew and Ricotte Investments Ltd, the Council was requested by Mr R Andrew on the 24<sup>th</sup> March 2017 to communicate with him for all the land interests. This was reiterated in the requisition for information response and was explicitly detailed in an email on 3<sup>rd</sup> October 2019. Subsequently this has also been communicated through the land agent simultaneously representing these three parties. The properties are a variety of leasehold and freehold interests as seen in the Brookfield joint title information document.<sup>13</sup>

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<sup>12</sup> [Appendix Document F](#)

<sup>13</sup> Statement of Case Supporting Document [No. 55](#)

- 7.4.2. Mrs Andrews, HCC 2011 Ltd and Ricotte Investments Ltd have submitted objections to the CPO, as detailed in Section 8 below.
- 7.4.3. Negotiations have progressed, with principles of accommodation works including new private means of access arrangements, reduction in land take, boundary fencing detail, planting provisions being at an advanced stage.
- 7.4.4. Following a meeting on 8<sup>th</sup> June 2021, where all outstanding issues were discussed, an agreement in principle has been reached and a formal agreement is being drafted allowing the objectors to formally withdraw their objections to the scheme.
- 7.5. Mr S Langmead (plots 4a and 4b) and Mr and Mrs K Langmead, Mr R Kyrke (plots 5a, 5b and 5c):
- 7.5.1. No objection has been made to the scheme.
- 7.5.2. We are currently in discussion with the landowners' agent regarding detail and specification of the required accommodation works.
- 7.6. J.A. Longhurst Limited c/o company directors Mr J Longhurst and Mr T Longurst (plots 6a, 6b, 6c and 6d):
- 7.6.1. No objection has been made to the scheme.
- 7.6.2. We are currently in discussion with the landowner's agent regarding detail and specification of the required accommodation works.
- 7.7. Mr and Mrs B Goodchild, Ms I Lindus (plots 8a, 8b, 8c, 8d and 8e):
- 7.7.1. No objection has been made to the scheme.
- 7.7.2. Negotiations are progressing with the landowners' agent, and accommodation works and terms for an advanced acquisition are currently under discussion.
- 7.8. Persimmon Homes Ltd (plots 9a and 9b):
- 7.8.1. No objection has been made to the scheme.
- 7.8.2. Persimmon Homes Ltd have been aware of A284 Lyminster Bypass (North) from the inception of their project and through the design of A284 Lyminster Bypass (South). Communication and collaboration was achieved in the design stage through a joint delivery group including the A259 and the Council's Persimmon Homes liaison. WSP involvement in the negotiations commenced in March 2020 where access to land for various surveys has been requested. Since March 2020 we have opened negotiations around a possible early acquisition of the land and we currently await notification that Persimmon has instructed a land agent in order to progress negotiations.
- 7.9. T&L Crawley No.2 LLP (plots 10a and 10b):
- 7.9.1. T&L Crawley No.2 LLP purchased three parcels of land on 15<sup>th</sup> May 2019 in the knowledge that they were physically affected by the proposed scheme. An email from the Council's Project Manager was sent on the 25<sup>th</sup> June 2019, prior to WSP appointment, notifying T&L Crawley's representatives of the Scheme's planned use of one of the

newly purchased areas for a compound. A letter of support was received from T&L Crawley No.2 LLP for the Scheme dated 8th July 2019, which also acknowledged that T&L Crawley No.2 LLP had only recently purchased its land interest. Chris Boulter as representative for T&L Crawley No.2 LLP was met with on the 8th October 2019 to discuss the details of the Scheme. WSP were instructed to commence negotiations with T&L Crawley No.2 LLP's newly appointed Land Agent in January 2020.

7.9.2. T&L Crawley No.2 LLP has since submitted an objection to the Scheme.

7.10. The land required for the Scheme is subject to an agreement between T&L Crawley No.2 LLP and Persimmon Homes granting rights to Persimmon Homes to use the land in connection with their development. This agreement contains provisions upon which Persimmon Homes must hand back the site. The Council acknowledges these provisions and is aware that the site will be handed back to T&L Crawley No.2 LLP by Persimmon Homes in a condition suitable for residential development. The land is currently designated for commercial development.

7.11. The Council require use of this area for the Scheme's southern compound and the construction of an embankment. Negotiations are currently ongoing, and include the following:

- i. The Council accepts the requirement for a detailed record of condition to be required prior to its occupation. This record of condition will include ground condition investigations (stability and contamination), utility services testing, topographical level survey. The details of the survey investigation specification are currently under discussion.
- ii. The possibility of locating the compound on other land within T&L Crawley No.2 LLP's ownership and other land ownerships has been investigated. Options have been considered to avoid the use of the T&L Crawley No.2 LLP land, but due to the nature of the civil engineering requirement at this location alternative options have had to be discounted. The rationale for continuing to require this land, and the reasons alternative sites could not be pursued, is set out in detail within Mr Tony Symonds' Proof of Evidence.
- iii. The Scheme programme has been reviewed and adjusted to mitigate the amount of time needed to be in occupation of this land. T&L Crawley No.2 LLP has offered an adjoining parcel of land, the use of which would allow the scheme contractors to vacate Plot 10b earlier than originally programmed. The decant to the alternative land will enable the contractors to complete works where it is not necessary for them to be located on Plot 10b.
- iv. T&L Crawley No.2 LLP has requested a financial bond that they are able to call upon should the site require remediation following the Council's reinstatement and vacation of the site. Whilst T&L Crawley No.2 LLP would have the benefit of indemnities contained within any occupation agreement drafted, and that they are also dealing with a financially sound public body that is at low risk of not being able

to fund any reinstatement work, the Council has however agreed to consider a bond arrangement on this occasion if it provides the landowner the necessary comfort required.

## **7.12. Negotiations with T&L Crawley No.2 LLP**

### **7.12.1. Initial Discussions**

On 8<sup>th</sup> July 2019 T&L Crawley sent a letter in support for Scheme.<sup>14</sup>

24<sup>th</sup> September 2019 – there was a meeting between the Council and T&L Crawley to discuss the Scheme and the way forward through negotiation.

T&L Crawley engaged Roger Hannah Surveyors who contacted the Council on 23<sup>rd</sup> Jan 2020.<sup>15</sup>

WSP and Roger Hannah Surveyors began communicating on 6 March 2020.<sup>16</sup>

### **7.12.2. Request to change Compound Location to the East.**

19<sup>th</sup> May 2020 – T&L Crawley No.2 LLP contacted the Council regarding an offer they had received for land including CPO Plot 10b requesting the Council change the location of the compound.<sup>17</sup>

20<sup>th</sup> May 2020 – the Council advised that they would review the suggestion, but would not be able to complete this prior to the CPO publication.<sup>18</sup>

26<sup>th</sup> May 2020 – Chris Boulter confirms Angela Juszczuk and WSP in contact and DWF available for engagement.<sup>19</sup>

2<sup>nd</sup> September 2020 – publication of CPO and SRO for the Scheme.

10<sup>th</sup> September 2020 – there was a meeting between T&L Crawley, the Council and associated representatives to discuss the proposals for moving the site compound.

21<sup>st</sup> October 2020 – the Council confirmed that in reviewing the request it had been identified that working space and the creation of an embankment were issues that would be raised through any move.<sup>20</sup>

2<sup>nd</sup> December 2020 – the Council notified T&L Crawley of the additional issues with moving the compound to the suggested location to the east of the Scheme.<sup>21</sup>

### **7.12.3. Request to change Compound Location to the Flood Plain.**

On the 9<sup>th</sup> December 2020 T&L Crawley on review of the engineering issues suggested the Council review moving the compound to the flood plain of

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<sup>14</sup> Statement of Case Supporting Document [No. 87](#)

<sup>15</sup> [Appendix Document G-19](#)

<sup>16</sup> [Appendix Document G-23](#)

<sup>17</sup> [Appendix Document G-27](#)

<sup>18</sup> [Appendix Document G-28](#)

<sup>19</sup> [Appendix Document G-29](#)

<sup>20</sup> [Appendix Document G-50](#)

<sup>21</sup> [Appendix Document G-67](#)



Black Ditch.<sup>22</sup> The Statement of Case was published prior to a response being formalised.

The email on the 19<sup>th</sup> February 2021 detailed the issues with moving the compound to the flood plain, which would have included the creation of an expanded haul road within the flood plain and presented the option of possible mitigation through reducing the plot size of 10a.<sup>23</sup>

The detailed construction constraints are described more fully within Mr Tony Symonds' proof of evidence.

#### 7.12.4. Land Occupation & Deed

The Council requested a copy of the Deed of Covenant between T&L Crawley and Persimmon Homes to address any issues that the occupation of the land might cause. On the 30<sup>th</sup> April T&L Crawley detailed the key substance of the Deed and their concerns regarding the proposed Occupation.<sup>24</sup>

On 21<sup>st</sup> May 2021 the Council detailed mitigation options for the time using T&L Crawley's land and reviewed the options related to surveying and returning of the land.<sup>25</sup>

Between 21<sup>st</sup> May 2021 and 5<sup>th</sup> July 2021 there was a further exchange of correspondence and a draft agreement was forwarded to T&L Crawley's Land Agent to be used to capture agreed obligations between the parties.

#### 7.12.5. Current Status of negotiations

A meeting took place between WSCC, WSP and representatives of T&L Crawley No.2 LLP on 8<sup>th</sup> July 2021 where the issues outlined at 7.12.4 were further discussed. An additional issue was raised relating to the potential 'step-in rights' that T&L Crawley No.2 LLP are able to use should Persimmon Homes not hand the site back in a condition suitable for residential development. The issue relates to timescales in that there is a narrow opportunity between Persimmon Homes vacating and the Council taking occupation for the Scheme.

- 7.13. The Council continues to address the issues raised by T&L Crawley No.2 LLP and look to obtain agreement in order for T&L Crawley No.2 LLP to withdraw their objection prior to the Public Inquiry. However, whilst the Council is considering reasonable measures to arrive at a negotiated position, it is essential that the T&L Crawley No.2 LLP land is made available for the scheme to commence. Alternative options considered by the Scheme Designer have proved to be unsuitable to deliver the scheme due to construction, health & safety and environmental risk affecting the project delivery: see the detail contained in Mr Tony Symonds' proof of evidence.

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<sup>22</sup> [Appendix Document G-71](#)

<sup>23</sup> [Appendix Document G-78](#)

<sup>24</sup> [Appendix Document G-98](#)

<sup>25</sup> [Appendix Document G-99](#)

- 7.14. T&L Crawley No.2 LLP have raised some queries regarding the Statement of Case and these are addressed in Appendix C-1 which includes a summary of email communications.
- 7.15. The full detail of email communications with T&L Crawley No.2 LLP is set out at Appendix G.

## **8. OBJECTIONS TO THE CPO AND SRO**

- 8.1. The Secretary of State received nine objections from six landowners in relation to the CPO and SRO. Details of objections are set out in Appendix 1 to the Statement of Case.
- 8.2. The Council has engaged with all six parties inviting them to progress discussions in respect of their objection.
- 8.3. The detail of each objection is described within the Statement of Case, along with the Council's responses to them.
- 8.4. Since making the CPO and SRO negotiations have continued with both objectors and other landowners. Should the CPO and SRO be confirmed then negotiations will continue until it should become necessary to exercise the powers in the orders to achieve possession of the land to deliver the Scheme.
- 8.5. **Punch Partnerships**
- 8.5.1. This objector has withdrawn its objection. A response to Punch Partnership's (now withdrawn) objection is contained in section 6 of Appendix 1 of the Council's Statement of Case.
- 8.6. **Mrs Andrew, HCC 2011 Ltd and Ricotte Investments Ltd**
- 8.6.1. These landowners have indicated that they will withdraw their objections as their concerns have been appropriately addressed.
- 8.6.2. A response to the objections of these landowners is contained at sections 2, 3, 4, 7, 8 and 9 of Appendix 1 of the Council's Statement of Case.
- 8.7. **Network Rail**
- 8.7.1. An agreement is being drafted to resolve the Network Rail concerns and it is likely that the objection will be withdrawn prior to the Public Inquiry.
- 8.7.2. A response to Network Rail's objection is contained at section 1 of Appendix 1 of the Council's Statement of Case.
- 8.8. **T&L Crawley No.2 LLP**
- 8.8.1. T&L Crawley No.2 LLP has objected on the grounds that the scheme will impact on development of their land for affordable housing provision. Their initial objection and the Council's response are set out at Section 5 of Appendix 1 to the Statement of Case. In summary, Plot 10b is designated for commercial use. As such any change of use by T&L Crawley No 2 LLP would require a planning application. The pre-planning application advice for a change in that permission is negative due to the reduction in employment land. This is

notwithstanding the need for affordable housing. The Council recognises that planning permission is a process and it is possible that consensus could eventually be met to fulfil the affordable housing in full or part as set out by T&L Crawley No 2 LLP. However whilst recognising that point, given the current occupation trigger points any availability for additional housing could well be taken up by Persimmon Homes in their development. See the Council's planning clarification request to Arun District Council Planning and their response which stated their concerns around the loss of employment land, the impact of trigger points on any further residential development and that Arun District Council would be unlikely to support any development scheme that would have a detrimental impact on the delivery of the A284 Lyminster Bypass (North).<sup>26</sup>

- 8.8.2. Further and importantly, permission is unlikely to be forthcoming for developments that prejudice the delivery of key infrastructure. The North Littlehampton Development Scheme (now known as Hampton Park) was built with the intention of having a complete Lyminster Bypass (North and South) in order to reap maximum benefits. Moving the compound as requested by T&L Crawley No.2 makes the delivery impossible due to the embankment which must be constructed. Even if this problem was surmountable, risk to the project is heavily increased. The Council supports affordable housing, and the best way to support that is through the infrastructure to allow that housing to be built.
- 8.8.3. The Council continues to consider the issues raised by T&L Crawley in order to agree appropriate measures that will allow the Council to use the land and it hand back in a condition suitable for future development. T&L Crawley No.2 LLP has set out it's requirements and it is hoped that common ground will be reached that will enable them to withdraw their objections. However, whilst the Council continues to consider reasonable measures to arrive at a negotiated position, it is imperative that their land is made available for the construction of the scheme. Alternative locations for the compound site have been considered and found to be unsuitable for the reasons set out in detail in Mr Tony Symonds' proof of evidence.
- 8.8.4. A further objection has been received from T&L Crawley No.2 LLP, stating that negotiations were not being pursued by the Council. This was at a time we were attempting to arrange a site meeting, and was just prior to a meeting that took place on 8th July 2021. The issues continue to be discussed between representatives of T&L Crawley No.2 LLP and the Council.
- 8.8.5. A response to T&L Crawley's objection is contained at section 5 of Appendix 1 of the Council's Statement of Case. In section 7 above, further detail on this rationale is provided, and technical matters are dealt with in Mr Tony Symonds' proof of evidence. In short, the

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<sup>26</sup> Statement of Case supporting document [No. 105](#)

Council believes that the objection from T&L Crawley does not justify non-confirmation of the CPO.

## **9. THE HUMAN RIGHTS ACT 1998**

- 9.1. Article 1 of the First Protocol relates to the peaceful enjoyment of possessions, and states that "...no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law... ." Whilst occupiers and owners in the CPO Land may be deprived of parts of their property if the CPO is confirmed, this would only be done in accordance the statutory provisions of the Highways Act 1980 and Acquisition of Land Act 1981, which enable the acquisition of the land and interests, and compensation will be payable under the Land Compensation Act 1973.
- 9.2. In the context of Article 1 I am advised that regard must be had to the fair balance that has to be struck between the competing interests of the individual and the community as a whole. Both public and private interests have been taken into account in the exercise of the Council's powers and duties.
- 9.3. In pursuing the CPO, the Council has fully and carefully considered the balance to be struck between the effect of acquisition of land on individual rights and the wider public interest in the construction of the new road. Interference with ECHR rights is considered by the Council to be justified in order to secure the environmental and public benefits which the Scheme will bring. The Council has sought to minimise the amount of land being acquired from third parties and will only exercise its powers under the CPO in the event that negotiations with them are not successful or cannot be achieved within the necessary timescales.

## **10. CONCLUSION**

- 10.1. The purpose of the CPO and SRO is to secure the assembly of land, and any interests in land, necessary to enable the development of the A284 Lyminster Bypass (North). It is necessary to assemble all the land and rights before development can commence as there must be certainty that the land, and necessary rights in land, can be achieved.
- 10.2. The Council's objectives are set out more fully in the Proofs of Evidence of Mr Martin, Mr Parfect, Mr Burrows and Mr Symonds.
- 10.3. There are multiple interests to be acquired, a total of 34 plots in the CPO. Some plots have multiple interests whether freehold, leasehold or other rights in the land.
- 10.4. In light of the number of interests and the outcome of negotiations to date, whilst negotiations have been positive, I consider it unlikely that the Scheme could be developed to achieve the Council's objectives without the availability of compulsory purchase powers. In order to implement the Scheme the Council needs certainty that land and interests can be acquired simultaneously.

- 10.5. The Council are confident that there is a clear public need for and benefits of the A284 Lyminster Bypass (North) which is supported by spatial planning and transport policy and evidence. The interference with the human rights of those parties with an interest in the CPO Land is justified in the public interest and the use of compulsory purchase powers is proportionate. In the event that any of the objections that have been submitted are maintained a public inquiry will be held and those whose interests are acquired under the CPO or affected under the SRO will, if confirmed, be entitled to compensation as provided under national law.
- 10.6. This proof of evidence has demonstrated that the criteria that must be met for confirmation of CPOs and SROs according to statute and guidance have been met by the Council, as follows:
- a) The interests and rights included within the CPO are required in order to deliver the Scheme in accordance with the objectives of the Scheme.
  - b) In the absence of the CPO there is reasonable prospect that the land and rights could not be assembled within an acceptable timescale.
  - c) The objections made have been fully considered and the Council has sought to address the concerns raised where it has been practical to do so.
  - d) The tests in s.14(6) and s.125(1) of the Highways Act 1980 as set out above are met.
  - e) The CPO guidance has been followed, and the use of compulsory purchase powers is justified. There is a compelling case in the public interest for confirming the CPO and SRO, in particular:
    - The Scheme will provide capacity improvements on the A259 transport corridor bringing benefits worth £113m over 60 years.
    - The scheme will help with regeneration of the Coastal Arun area, which is a key priority in the Arun Local Plan and for the Local Enterprise Partnership.
    - The potential negative impacts of the scheme have been assessed and the remaining impacts, post mitigation, have been found to be minor in nature.
    - The Scheme is shown to represent very good value for public money, by significantly improving journey times for all roads users in the area. It also provides wider economic benefits by providing new transport infrastructure that improves the resilience of the Coastal Arun road network and helps to enable jobs and housing to come forward.
    - The Scheme is well embedded in local Planning Policy, as well as helping to deliver against national transport investment strategy objectives. It is backed by central Government (the DfT) through the Local Enterprise Partnership who have allocated £7.492m of funding to enable the delivery of the Scheme.

- f) The purposes for which the CPO is made justifies interfering with the human rights of those with an interest in the affected land. A CPO is needed to provide certainty that all land required to implement the Scheme is secured on a timely basis. This is necessary because there are a large number of landowners and hence a high likelihood that one or more would not be willing to part with his or her land voluntarily. Additionally the Council has entered into an Agreement with the Local Enterprise Partnership which requires that the scheme be delivered in a timely fashion to suit the LEP funding period, whilst minimising the impact of inflation upon the overall scheme budget. Failure to deliver the Scheme would result in a failure to support much needed economic development and regeneration within the area.
- g) The Council is able to clearly set out how it intends to use the land which it is proposing to acquire, as indicated within Mr Andrew Burrows' proof of evidence, the Scheme drawings and the Order plans. Detailed scheme proposals have been developed and refined over a number of years, following investigation and appraisal work by wide-ranging specialists and using findings from the public consultation. The engineering design identifies all land that is required to both construct the Scheme and to ensure the continued safe operation of the highway once it has been completed.
- h) The Council can show that all the necessary resources are likely to be available to construct the Scheme within a reasonable time-scale, and that there is funding available to both acquire the necessary land and implement the Scheme in a timely manner, as set out in the Council resolution to allocate funding dated 30th July 2019 under report reference HI09 (19/20).
- i) The Scheme is unlikely to be blocked by any physical or legal impediments to implementation. The Scheme has the required planning permission. Subject to confirmation of the Orders, the remaining processes that are required to implement the Scheme are the confirmation of the discharge of planning conditions, the confirmation of the Flood Risk Activity Permit, and the formal advertisement and associated Council approval processes for the necessary traffic regulation orders (TROs). Should there be any objections to the TROs the person(s) responsible for giving approval for them to be implemented would be the Local County Councillor or the Council's members of the Joint Eastern Arun Area Committee (JEAAC). All Local County Councillors and the Council's members of the JEAAC committee are aware of the strategic importance of the Scheme and and would assess any objections against the overall Scheme objectives.
- j) The public have been consulted and found to be in favour of the scheme - see section on public consultation in Mr Mark Martin's proof of evidence.
- k) The Scheme has evolved through engineering design, the environmental assessment report, public consultation and traffic modelling analysis into one which minimises the impact on the surrounding landscape and population, whilst still meeting the transport objectives of the scheme and ensuring that the performance of the local

highway network will greatly improve following completion of the Scheme.

10.7. In my opinion the CPO and SRO are demonstrably in the public interest and should be confirmed.

## **11. APPENDIX DOCUMENTS**

11.1. The following documents are appended in the composite appendices for the Council, as referred to in this Proof (in addition to those appended to the Statement of Case):

[A. DEPARTMENT FOR TRANSPORT & WSCC COMMUNICATIONS ON ORDER MODIFICATIONS](#)

[B. MODIFIED CPO DOCUMENT](#)

[C. MODIFIED SRO DOCUMENT](#)

[E. SIDE ROADS ORDER MODIFIED DRAWINGS](#)

[F. PRINCIPAL PROPERTY OWNERS COMMUNICATION SCHEDULE](#)

[G. T&L CRAWLEY NO.2 LLP - EMAIL COMMUNICATION LOG](#)