

**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**

**OPENING SUBMISSIONS
AND LIST OF APPEARANCES
FOR WEST SUSSEX COUNTY COUNCIL**

Appearances for the Acquiring Authority

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Witnesses

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Opening submissions

Introduction

1. West Sussex County Council (**'WSCC'**), the acquiring authority, seeks to acquire compulsorily land and rights, to stop up a length of bridleway and private means of access, and to provide new means of access, in order to bring forward a bypass scheme for which there is pressing need and which will bring substantial economic, environmental and social benefits to the area. This opening will outline the scheme, its purpose and benefits, the compulsory purchase order (**'CPO'**) and side roads order (**'SRO'**), and WSCC's case in relation to the remaining objection.

The Scheme

2. The A284 Lyminster Bypass (North) (**'the Scheme'**) will comprise the construction of a section of highway around 1.1km in length on land east of Lyminster village in Arun. It will link the A284, just south of the A27 Crossbush Junction, with a new southern bypass that is being constructed as part of the North Littlehampton development. It forms part of a wider Lyminster Bypass project providing a north-south link between the A27 and Littlehampton: the Fitzalan Link comprises the most southerly part and has been built; the central part of the bypass has approval through a wider outline planning permission for housing and employment development at North Littlehampton, and is under construction; and the A284 Lyminster Bypass (North) will complete the overall project. The Scheme will also complement improvements which are currently being undertaken to the A259 Littlehampton corridor.

3. The Scheme commences on the A284 south of the A27 Crossbush Junction. Approximately 200m of resurfacing is proposed before construction of the new highway commences. The Scheme would comprise a new 7.3m wide carriageway, with a 3m wide shared cycleway / footway. At its northern extent the road would cross Brookfield Stream, which would be in an enlarged culvert, and the road would then be joined by a new junction with the existing A284. The road would initially be on an embankment before being in a slight cutting. A signalised Pegasus crossing (for cyclists, pedestrians and equestrians) would be created on the line of existing bridleway number 2163 between Lyminster and Poling. Moving south, the new road would be constructed on an embankment and then on a 225m long viaduct, which would span the entirety of the Black Ditch flood plain, before the road reverts to being on an embankment and then to ground level. The road would link into a new roundabout being constructed as part of the southern bypass within the North Littlehampton development.
4. The shared cycleway / footway would run down the west side of new road until the Pegasus crossing, after which it would continue south down the east side of the road to link into routes in Littlehampton.
5. The section of the existing A284 south of Brookfield Stream would remain open to provide access to the bypassed parts of Lyminster village. It would be downgraded to a B class road.¹

Need for and benefits of the Scheme

6. The need for a bypass in this location has been recognised for at least 30 years, with a version of the Scheme approved by the Highways Committee in 1992.
7. The A284 forms an important north-south link, which provides a principal access to Littlehampton, and connects to the A259 providing access to Rustington, East Preston and Climping. To the north it

¹ See WSCC letter to DfT 5th February 2021 at composite proof appendix A-2.

connects to the national Strategic Road Network at the A27 for longer-distance traffic.

8. The A284 through Lyminster is not fit for purpose at present, given vehicles must navigate the four 90 degree bends in the village in rapid succession. Traffic is then faced with the Wick level crossing, where there are regularly eight or more trains movements per hour giving rise to frequent barrier closures of unpredictable duration (for example if two movements overlap to a greater or lesser extent), which leads to delays and unreliable journey times. The road carries significant levels of traffic – average weekday 24 hour traffic flows of over 13,000 vehicles and peak hour traffic flows of over 900 vehicles (including 14% LGVs and 7% HGVs) (Statement of Case para 4.6.2). Traffic flows are expected to increase significantly once planned development in the area is complete. All this traffic is going through the Lyminster Conservation Area and directly past listed buildings and street facing residential properties. There have been a high number of accidents on this relatively short stretch of road.
9. The Scheme was originally approved by the Council for these reasons back in the 1990s (Statement of Case documents 14 – 15). Since then the case for the Scheme has become immeasurably stronger. Significant new development has been granted planning permission at North Littlehampton – 1,260 dwellings and 13,000sqm of employment floorspace and associated development (ref. LU/47/11) – which is being built out. The Scheme will provide an appropriate north-south access to that development, rather than the unsatisfactory Mill Lane route and the problems of the existing A284.
10. More widely, there is an acknowledged infrastructure deficit on this part of coast which the Scheme, along with the rest of the bypass and the A259 corridor improvements, will help address. The Arun Local Plan 2011-31 specifically notes that “*The District is lacking in strong north-south links between the main towns of Littlehampton and Bognor Regis and the A27*” (15.1.2), and the Lyminster Bypass route is safeguarded as part of a solution to this issue (Policy T SP1(c); T SP3). The difficulties in accessing Littlehampton and

surrounding areas makes Littlehampton a less attractive location for homes and jobs. Most of Littlehampton suffers from above average levels of deprivation, and there are concentrated pockets which fall in the worst 10% in England in terms of income deprivation (Arun Local Plan 2011-2031 para 3.23; Statement of Case para 4.52). The Local Transport Plan 2011-2026 observes that "*The economic performance of Coastal West Sussex is below the rest of the County and is of most concern in Arun and Adur*" (1.3, p.22).

11. The Scheme will alleviate the environmental issues in Lyminster village and bring substantial benefits in the form of a less congested route with reduced journey times providing better access to and from the Littlehampton area. It is part of the infrastructure required to support significant planned growth in the area. The Scheme is supported by a business case which shows significant benefits and high value for money.

Policy support

12. The Scheme is embedded in planning policy. Realising policy ambitions is itself a significant benefit of the Scheme. The West Sussex Local Transport Plan 2011-2026 notes that the A284 is "*an important link road*" (1.4.1, p.29) but identifies highways problems on the A284 (including through its interaction with the A259) and explains that the Scheme is an appropriate means to address them (1.4.1; 2.2.2). The Arun District Council Local Plan (adopted July 2018) safeguards the bypass (policy T SP3) and supports the Scheme. The Coast to Capital Local Enterprise Partnership's Strategic Economic Plan 2014 recognises the economic, social and environmental benefits of the Scheme and provides funding accordingly. The Littlehampton Neighbourhood Plan 2014 likewise supports the Scheme (4.7.5 and Policy 19).

Funding and consents

13. The Scheme is fully funded. The Department for Transport has recognised the benefits of the Scheme by entering it within the Major

Road Network programme and awarding the Scheme £11.792m (letter of 7th June 2021, proof composite appendix S).

14.The Scheme has planning permission, granted on 9th May 2019 (Statement of Case document 34) and conditions are already in the process of being discharged. There are no likely impediments to the Scheme.

15.As part of the application for planning permission, environmental impacts were considered in detail and found to be acceptable (indeed significantly beneficial in many ways).

16.The Scheme has been consulted on widely and received the necessary Council approvals.

The CPO and SRO

17.The CPO is made under ss.239, 240, 246, and 250 of the Highways Act 1990. The SRO is made under ss.14 and 125 of the 1980 Act. The Council will ask the Inspector to recommend confirmation of the CPO and SRO subject to certain modifications (pursuant to s.13A(5) of the Acquisition of Land Act 1981 and para 8 of Sch. 1 to the Highways Act 1980 respectively).

18.A list of the proposed modifications is contained in tables on p.6-8 of Mr Godden's proof of evidence, and track changed versions of the CPO and SRO are at proof composite appendices B and C. These comprise of a number of minor changes which have been agreed with the Department for Transport.²

19.Three further minor modifications in respect of the descriptions of plots 8a, 9a and 9b in Table 1 of the CPO are requested, as notified to the DfT, the Programme Officer and the relevant landholders yesterday.

20.The SRO complies with the tests in ss.14(6) and 125(3) (read with s.129) of the 1980 Act, whereby:

² See correspondence at proof composite appendices A-1 – A-5.

s.14

“(6) No order under this section authorising the stopping up of a highway shall be made or confirmed by the Minister unless he is satisfied that another reasonably convenient route is available or will be provided before the highway is stopped up.”

s.125

“(3) No order authorising the stopping up of a means of access to premises shall be made or confirmed by the Minister by virtue of subsection (1)(a) above unless he is satisfied -

(a) that no access to the premises is reasonably required, or

(b) that another reasonably convenient means of access to the premises is available or will be provided in pursuance of an order made by virtue of subsection (1)(b) above or otherwise.”

Objections

21. Objections were made as follows:

- a. T&L Crawley No.2 LLP: CPO
- b. Ruth Andrew: CPO and SRO. Withdrawn 9th August 2021.
- c. HCC Ltd: CPO and SRO. Withdrawn 9th August 2021.
- d. Ricotte Investments Ltd: CPO and SRO. Withdrawn 9th August 2021.
- e. Network Rail: CPO. Withdrawn 6th August 2021.
- f. Punch Partnerships Limited: CPO. Withdrawn 22nd February 2021.

T&L Crawley No.2 LLP

22. T&L Crawley No.2 LLP (“**T&L**”) objected by letter dated 26th October 2020 and sent a further letter of objection dated 1st July 2021. T&L have submitted no statement of case and no proofs of evidence.

23. T&L support the Scheme, as stated in both its letters of objection and an earlier letter of 8th July 2019 (Statement of Case supporting document no.87). T&L however apparently wish to change the way in which it is constructed.
24. T&L has an interest in plots 10a and 10b, which adjoin the proposed route of the bypass. Plots 10a and 10b are needed for temporary use for construction and working space.
25. T&L purchased the land in May 2019. It did so therefore when the Scheme was already well advanced, with the Planning Committee having resolved in favour of granting the Scheme planning permission on 26th March 2019. Plots 10a and 10b were included within the red line of the planning application and clearly shown as part of the Scheme in the application plans, including an annotation of plot 10b as "temporary working area" and "site compound".³
26. T&L's objection is particularly concerned with the impact of the Council's proposed use of plot 10b on T&L's proposals for that land. T&L wishes to develop land of which plot 10b forms part for residential use. At the time of T&L's first objection letter, T&L had apparently agreed terms for the sale of plot 10b (along with other land) to a registered housing provider (who intended to construct 154 affordable homes, subject to planning permission). As a result, T&L proposed that the construction compound which the Council intend to locate in plot 10b be moved.
27. The Council has thoroughly explored T&L's suggestion but it is not achievable. For the detailed design, construction and engineering reasons set out in Mr Burrows' and Mr Symonds' evidence and elsewhere, the compound needs to be on the west side of the road, and not in Parcel C offered by T&L on the east side of the road, where it would both interfere with the drainage proposals and not be on the

³ See respectively: dwg A284LY-CAP-HGN-DR-C-0146 rev P03 - site plan sheet 1 of 2 (in appendix B of the Transport Assessment at composite proof appendix I); and dwg A284LY-CAP-HGN-00-DR-C-0190 rev P02 - combined planning information sheet 1 of 4 (at composite proof appendix U). Both of these were approved plans, as shown in condition 3 of the planning permission dated 9th May 2019 (statement of case document 33).

same side as the construction access proposed on the west. T&L's further proposal to move the compound into the flood plain to the north of plot 10b is also unviable due to flood risk and ecology concerns.

28. In terms of weighing the interference with T&L's interest against the case for the Scheme, it also needs to be borne in mind that:

- a. The attractiveness of T&L's land to the market is enhanced by the Lyminster Bypass.
- b. T&L purchased the land when it was public knowledge that the land was required for the Scheme, as set out above.
- c. T&L are proposing speculative development on plot 10b: Plot 10b is allocated and has outline planning permission for B1 use, not residential use. While T&L may of course apply for planning permission for residential use, the current advice of the local planning authority, Arun District Council, is that T&L's proposal would be unacceptable in principle (statement of case supporting document no.105). It is also unclear whether the particular proposal for 154 units is being pursued any longer (see email of 6th April 2021 at the Council's Appendix G-92 at point 2).

29. T&L's suggestion that the Council have not adequately engaged or negotiated with T&L is unfounded. The Council have been in very frequent communication with T&L since shortly after T&L's acquisition of its land interest, as documented in the Council's Appendix G⁴. This engagement continues right up to the present. The Council sent a draft agreement to T&L on 2nd July 2021 (G-107), which would regulate the Council's reinstatement of T&L's land after the Council's temporary use of it. T&L's 17th June 2021 letter sought such provisions (G-105) and the Council has responded accordingly. T&L did not provide a substantive response to that draft agreement for over five weeks until yesterday, Monday 9th August 2021, when T&L

⁴ Including pages G-110-1 and 110-2, which were inadvertently omitted from the original version of Appendix G, but circulated last week.

sent a proposed 'Heads of Terms' document directly to the Programme Officer. This had not been sent to the Council previously, contrary to T&L's suggestion in yesterday's covering email (09:29) that "We are currently awaiting a response from the Council". Indeed the Council were not copied in to that email, such that the Council only received it when the Programme Officer forwarded it. The Council will review T&L's proposals but in light of the protracted correspondence so far, it is important that the CPO is confirmed.

Conclusion

30. In light of all of the above, the Council will say that the tests in the CPO Guidance (Guidance on the Compulsory Purchase Process and the Crichel Down Rules, MHCLG, July 2019) for confirming the CPO and the legislative tests for confirming the SRO are made out. WSCC will in due course invite the Inspector to recommend confirmation, subject to modification, to the Secretary of State.

HUGH FLANAGAN

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10th August 2021