

PUBLIC INQUIRY

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL (SOUTH WYE TRANSPORT PACKAGE) – A4194 SOUTHERN LINK ROAD (CLASSIFIED ROAD) (SIDE ROADS) ORDER 2018

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL (SOUTH WYE TRANSPORT PACKAGE) – A4194 SOUTHERN LINK ROAD COMPULSORY PURCHASE ORDER 2018

INSPECTOR'S PRE-INQUIRY NOTE**1 Purpose Of This Note**

- 1.1 The purpose of this note is to assist parties in preparing for the Inquiry into objections to the above Orders, so that it can run more efficiently than might otherwise be the case. It is being issued to the Acquiring Authority (The County of Herefordshire District Council ("the Council" – also referred to as "the Promoter")) and to those parties who have made representations about the Orders that are to be the subject of the Inquiry.
- 1.2 The Programme Officer for the Inquiry will be Graham Groom of Persona Associates (www.persona-pi.com). His role will be to ensure that the administrative arrangements for the Inquiry work as smoothly as possible. His contact details are.
- email – grahamgroom@personaassociates.co.uk
 - Tel – 01403 217799
 - Mobile No – 07860 636 909
 - Address – Persona Associates, 1st Floor, Bailey House, Barttelot Road, Horsham, RH12 1DQ
- 1.3 The Programme Officer will work under the Inspector's direction and act as the link between all the participants of the Inquiry and the Inspector. He will take no part in the Council's case – or indeed anyone's case. His duties will include arranging the day to day programme of the Inquiry, co-ordinating the distribution and numbering of documents and maintaining the Library of Inquiry documents.
- 1.4 The website for the Inquiry is: <http://a4194.persona-pi.com/>

2 Purpose Of The Public Inquiry

- 2.1 The purpose of the Public Inquiry is to enable the Inspector to gather information before making his report to the Secretary of State for Transport. In his report he will set out the gist of the evidence given to the Inquiry and recommend either that the Side Roads Order and the Compulsory Purchase Order should be confirmed; or that they should be modified and confirmed; or that they should not be confirmed. The Secretary of State will consider the Inspector's report before making his decisions.
- 2.2 Discussion about the merits of Government policy, matters of compensation and points of law are outside the scope of the Inquiry. But the application of Government Policy to the scheme promoted by the Council would be a relevant consideration.
- 2.3 The statutory tests that must be satisfied before the Side Roads Order can be confirmed are that:

- a) no highway shall be stopped up unless another reasonably convenient route is available or will be provided before the highway is stopped up.
 - b) the stopping up of a private means of access shall only be authorised if no access to the premises is reasonably required; or if another reasonably convenient means of access to the premises is available or will be provided.
- 2.4 Government guidance on the compulsory purchase of property is contained in *Guidance on Compulsory purchase process and The Crichel Down Rules*, published by the Ministry of Housing, Communities and Local Government in February 2018. There will be justification for making or confirming a Compulsory Purchase Order if each of the following tests are satisfied:
- a) there should be a compelling case in the public interest, and the purpose of acquisition should sufficiently justify interfering with the human rights of those with an interest in the land affected.
 - b) the acquiring authority should have a clear idea of how it intends to use the land it is proposing to acquire.
 - c) the acquiring authority should show that all the necessary resources are likely to be available to achieve the scheme purpose within a reasonable time-scale.
 - d) the acquiring authority should be able to show that there is a reasonable prospect of the scheme going ahead, and that it is unlikely to be blocked by any physical or legal impediments to implementation.
- 2.5 The Inspector's report will address these issues and it will therefore assist the Inspector if evidence given to the Inquiry refers to the tests detailed above.

3 Procedure

- 3.1 The conduct of the Inquiry and the events leading up to it are set out in Statutory Rules: Highways (Inquiries Procedure) Rules 1994 and the Compulsory Purchase (Inquiries Procedure) Rules 2007.
- 3.2 Statutory objectors, and the Promoter, have a right to appear at the Inquiry. The Inspector may allow others to appear at the Inquiry, in accordance with the Rules, to support or object to the scheme. Those who appear may question others who take a different view, and be questioned by them. This allows the evidence to be tested. The Promoter may prepare "rebuttal" evidence in response to evidence given by objectors, and objectors may respond to that when giving their evidence at the Inquiry. All evidence should be relevant and not repetitious.
- 3.3 In summary, the order of appearing at the Inquiry will be first, the Council; then supporters of the Orders; then objectors to the Orders. Details of the precise procedure to be followed at the Inquiry, within the general framework set out above (and given in tabular form in the Annexe to this note), will be determined once the number of objectors and supporters who wish to appear has been established. As each Council witness completes their evidence-in-chief the Inspector may ask the witness to clarify aspects of their evidence, and objectors and opposing interested parties will also be given the opportunity to ask questions of clarification of the Council's witnesses at this stage. Please note that this is not the opportunity for objectors to fully cross-examine the Council's witnesses – that will occur immediately prior to the objector presenting their own evidence (see annexed table for more details).

- 3.4 The Inspector will also wish to include a "Round Table" session within the Inquiry programme, at which the Council will be able to clarify, in detail, the information shown on the SRO and CPO plans.
- 3.5 In addition, the Inquiry programme will make provision for a site visit, at which the Inspector will need to be accompanied by representatives of the Council and objectors. No evidence will be heard during the site visit – it is simply an opportunity for the Inspector to see, on the ground, the proposed route and alignment of the Southern Link Road and the details shown on the SRO and CPO plans, and for him to understand the scope of objections, especially those from objectors who would be directly affected by the proposals.
- 3.6 At the end of their appearance, or towards the end of the Inquiry, each party may make a closing submission. The Rules establish that the Council has the right of final reply. Closing submissions must not contain new evidence. The purpose of a closing submission is to briefly summarise a party's case as it rests at the time of making the submission; to highlight any point on which the party has been satisfied by those whose case is opposed; to identify those aspects of opposing cases which the party considers have not been made out; and to make any legal submission associated with the party's case.
- 3.7 If any already decided legal cases are referred to in a party's closing submission, full copies of the judgements must be provided with the closing submission. Closing submissions given toward the end of the Inquiry may be made in writing only, or in writing and orally. The same weight is given in either case. A copy of the submission should also be provided electronically. Details of format etc should be discussed with the Programme Officer.

4 Evidence

- 4.1 Evidence is commonly presented at Inquiries in the form of a written statement (known as a proof of evidence) to be read aloud by the witness. This is usually a text document of one or more pages as the witness chooses. Proofs of evidence should have their pages and paragraphs numbered, and if the proof is longer than 1500 words, a separate written summary must also be provided and it is that summary which is read out by the witness at the Inquiry. Regardless of whether or not a summary has been submitted, the Inspector will take into account the whole of that person's evidence, and the witness may be questioned on it all.
- 4.2 Proofs of evidence should be sufficient to convey the whole of the witness's evidence (apart from rebuttal evidence) and there should be no need for any oral exposition of such evidence when the witness first appears. Units of measurement in proofs and documents should be metric (with imperial equivalents in brackets if considered necessary). Documents should be A4 size (or A3 folded to A4) wherever possible. All documents submitted to the Inquiry will be placed in the Inquiry Library and will be open to public inspection.
- 4.3 Proofs may be supported by volumes of Appendices and/or Figures. Appendices should be bound separately from the main proof. They should be paginated throughout and contain a list of the documents included, with page references, at the beginning of the bundle. Individual appendices should be divided with a projecting tab so that they can easily be navigated. An appendix need contain only those extracts that are relevant, not the whole document, but should always include the title page. The full document should, however, be available at the Inquiry.

- 4.4 Those who wish to rely on material from the internet must provide printed copies of the material in question, as the content of websites can change and it is important that the Inspector and the Secretary of State see the information the witness intends them to see.
- 4.5 The Inquiry Library will also contain a number of Core Documents - details can be obtained from the Programme Officer. The relevant documents available to date can be seen on the Inquiry website at:
<http://a4194.persona-pi.com/>
- 4.6 There is no need for the same document to be submitted several times over by different objectors. Objectors should therefore check if the document they wish to refer to is already on the Core Document list. Anything not on the list will need to be separately provided by the parties.
- 4.7 All written material put to the Inquiry by parties who choose not to appear at the Inquiry will be considered by the Inspector when writing his report. In principle, greater weight is likely to be given to evidence which withstands testing under questioning at the Inquiry.
- 4.8 As noted above, the Promoter might choose to prepare written rebuttal evidence in which it responds to points detailed in objectors' proofs of evidence or Inquiry statements. If so, the "rebutted party" should have the opportunity to consider that evidence before they appear at the Inquiry. The Promoter should therefore ensure that its rebuttal evidence is delivered to the party in question at least 2 working days before the start of the Inquiry, that is, not later than 10:00 am on Friday 26 October 2018. Copies of all rebuttal evidence should be provided to the Inspector before or during the first morning of the Inquiry.
- 4.9 General advice on the preparation of evidence can be found on the Planning Portal website:
http://webarchive.nationalarchives.gov.uk/20150601165448/http://www.planningportal.gov.uk/uploads/pins/highways_best_practice.pdf
- (if this link does not automatically take you to the correct page, please copy and paste it into a browser)
- 4.10 Under the Inquiries Rules, every document (or the relevant part of every document) to which the Promoter intends to refer shall be placed on deposit for viewing by the public free of charge at all reasonable hours, and every statutory objector shall be notified of the places at which those documents may be inspected. Although there is no requirement to do so, the Council may wish to also notify all non-statutory objectors known to them.
- 4.11 The documents to be relied upon by each party should be numbered sequentially and given the prefix numbers which will be allocated by the Programme Officer to indicate their source. (eg 1/1/1 refers to Objector number 1/witness number 1/document number 1). Parties should contact the Programme Officer for guidance regarding the numbering of documents.
- 4.12 A minimum of 3 copies of each document will be needed – 1 for the Inspector, 1 for the Council and one for the Inquiry Library. Wherever possible, documents should additionally be submitted in electronic form. The documents should be sent to the Programme Officer to arrive no later than 9 October 2018.

5 Timetable

- 5.1 The Inquiry will open at 10:00 am on **Tuesday 30 October 2018** at the Bridge Room, Hereford Left Bank, Bridge Street, Hereford, HR4 9DG. It is scheduled to sit for 7 days, but this may vary once the detailed timetable has been prepared. The normal sitting times of the Inquiry will be 10.00am to 5.00-5.30pm on Tuesdays to Thursdays; on Fridays the Inquiry sessions will start at 9.30am and will finish at mid-afternoon – around 3.00-3.30pm. An earlier, 9.30am start may be needed on other days, depending on progress. The lunch period will normally be from about 1.00pm to 2.00pm and there will be short breaks each mid-morning and mid-afternoon (apart from Friday pm).
- 5.2 The Programme Officer will co-ordinate the Inquiry programme. To this end he will send a Programming Form to all the Statutory and Non-Statutory Objectors and to anyone else who responded to the Notice of the Orders. The form will ask whether the recipient wishes to appear at the Inquiry and will request contact details, information on any proposed professional representation and an estimate of the time likely to be required to give evidence and to conduct cross-examination. It will also seek an indication of which Council witnesses are likely to be cross-examined by the objector or his/her advocate.
- 5.3 This information will assist in the efficient scheduling of the Inquiry timetable. The programming forms should be completed and returned to the Programme Officer by 16 October 2018.

6 Public Inquiries Facilities

- 6.1 If at all possible, the Inquiry venue should provide the following facilities:
- A retiring room for the Inspector
 - Private meeting rooms for parties appearing each day
 - Disabled access and facilities
 - Cloakrooms and toilets
 - The Inquiry library
 - Display boards for drawings
 - A public address system
 - Copying facilities
 - Car parking
 - Secure facilities for document storage

If any of these are not likely to be available the Council should contact the Planning Inspectorate to see how the matters in question might best be resolved.

David Wildsmith
INSPECTOR
19 September 2018

ANNEXE

Order of presentation of cases

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| Inspector's opening preliminaries and announcements | |
| THE COUNCIL | |
| Short opening statement by the Council | This will allow those people unable to attend the whole of the inquiry to have an understanding of the issues |
| Witnesses' evidence in chief | |
| Questions of clarification from Inspector and objectors, after each witness's evidence | |
| EACH SUPPORTER (if any) | |
| Presentation of case | |
| Cross examination by objectors | |
| Re-examination | |
| Closing remarks | |
| EACH OBJECTOR | |
| The Council may wish to present a response or rebuttal of the Objector's case | |
| Objector questions/cross-examines Council witnesses | Where possible Objectors should inform the Programme Officer beforehand which Council witnesses are to be cross-examined |
| Re-examination of Council witnesses | by Council's advocate |
| Objector's evidence in chief | Objector presents their own case |
| Questions by the Council | on objector's case |
| Re-examination of Objector | By any advocate acting for the Objector – or if Objector is presenting their own case, this is an opportunity for any matters already given in evidence to be clarified, if necessary – new points should not be raised at this stage |
| Closing remarks by objector | |
| OTHERS (if any) | |
| Presentation of evidence | After all objectors and any counter objectors have completed their cases, any other evidence from interested persons or bodies who may object to the Orders in some way may be heard. |
| Questions from the Council | If any |
| A "Round Table" session at which the Council will clarify the information shown on the SRO and CPO plans | Usually held prior to the accompanied site visit |
| An accompanied site visit | At an appropriate time in the proceedings |
| CLOSING | |
| Closing submissions on behalf of the Council | |
| Inspector closes the inquiry | |

The Inspector may also have questions for each witness