

The Highways England (A249 Trunk Road Stockbury Roundabout Improvements)(Side Roads) Order 2019

The Highways England (A249 Trunk Road Stockbury Roundabout Improvements) Compulsory Purchase Order 2019

The A249 Trunk Road (Stockbury Roundabout Improvements) Order 20[..]

Highways Act 1980
and
Acquisition of Land Act 1981

NOTES FOLLOWING THE PRE-INQUIRIES MEETING

Held at 10:00 hrs on 7 January 2020

The Heritage Suite, Hempstead House, London Road, Bapchild,
Sittingbourne.

1. Introduction

- 1.1. At the start of the Pre-Inquiries Meeting, the Inspector welcomed all present and introduced himself as **Mr Ian Jenkins** (BSc(Hons) CEng MICE MCIWEM). He has been appointed by the Secretary of State for Transport to conduct concurrent Inquiries into the 3 Orders referred to above, on the basis of which he will report to the Secretary of State.
- 1.2. **Yvonne Parker** has been appointed as the Programme Officer for the Inquiries. Her role is to act as an impartial officer of the Inquiries, responsible to the Inspector. She will take no part in anyone's case. Her main duties, under the direction of the Inspector are:
1. Acting as the link between participants and the Inspector;
 2. Keeping records of those attending the pre-Inquiries meeting and Inquiries;
 3. Organising and keeping under review the Inquiries programme;
 4. Organising practical arrangements for the Inquiries, including co-ordinating and advising on appearances;
 5. Co-ordinating the receipt and distribution of documents;
 6. Holding a master set of all documents (inc. Inquiries Library) and maintaining document lists; and
 7. Planning site visits.

She will play no part in the Inspector's report to the Secretary of State beyond helping with the collation of lists of those appearing at the Inquiries and of Inquiries documents, which will be appended to it.

- 1.3. The Programme Officer's contact details are given below:
- Telephone no.: 01282 450522
 - Mobile no.: 0781 3334305
 - Email address: posltd@virginmedia.com
 - Address: 2 Priory Court, Burnley, Lancashire, BB11 3RH.

2. Purpose of the public Inquiries

- 2.1. The purpose of the Inquiries is to enable the Inspector to gather evidence before making his report to the Secretary of State. In his report he will set out the gist of the evidence given to the Inquiries and recommend either that:
- The Side Roads Order and the Compulsory Purchase Orders should be confirmed, they should be modified and confirmed or they should not be confirmed.
 - The Trunk Road (Line Order) should be made, should be modified and made or should not be made.

The Secretary of State will consider the Inspector's report before deciding what action to take on the Orders.

- 2.2. The Inquiries will hear representations concerning the above Orders in light of, but not limited to, objections which have been made and not withdrawn.

3. Purpose of the pre-Inquiries meeting

- 3.1. The meeting was to enable all concerned to discuss procedural matters relating to the Inquiries, which are due to open on 10 March 2020. This should help everyone to make the best use of their time between now and the Inquiries, and help the proceedings to run smoothly.
- 3.2. There was no discussion of the merits of any of the cases for or against the Orders, as that will have to wait until the Inquiries formally open.

4. Parties present and appearances at the Inquiries

- 4.1. Details of those identified as representing parties at the pre-Inquiries meeting and their expected representation at the Inquiries are appended at Appendix 1.
- 4.2. The absence of any other party from the pre-Inquiries meeting will not of itself preclude their participation at the Inquiries.
- 4.3. At the Inquiries the Inspector will wish to hear from anyone who has a relevant point to make in connection with the Orders. Parties may appear at the Inquiries in person and may be represented by counsel,

a solicitor or some other representative. However, when making a case, prospective participants should bear in mind that if a point is a good one, and is supported by relevant evidence, it needs to be made only once in order to carry weight. Repeating the point will not add to that weight, but will simply waste Inquiries time. With that in mind it may be that arguments for or against the Orders could be made more effectively and succinctly by one person/organisation than by many individuals making the same points in slightly different ways. The Inspector urged parties/individuals to get together wherever possible to present joint cases through a single spokesperson. In order to ensure that the Inquiries are completed as expeditiously as possible, the Inspector will intervene to prevent any unnecessary repetition.

- 4.4. People who do not need or wish to speak at the Inquiries will, nonetheless, be welcome to attend as observers. In considering the Orders and associated matters, the Inspector will take account of all of the evidence heard at the Inquiries as well as written representations received before it closes. However, greater weight can be attached to evidence given at the Inquiries which is open to testing through cross-examination.

5. Inquiries venue

- 5.1. The Inquiries will be held in the Heritage Suite of Hempstead House, London Road, Bapchild, Sittingbourne, ME9 9PP.
- 5.2. In addition to the main Inquiries room, there will be side rooms for the Inspector and the Programme Officer. Photocopying facilities will be available (the copy rate may be limited and a reasonable charge may be made for copying). If the parties who intend to appear at the Inquiries need particular facilities they should take the matter up with the Programme Officer.

6. Inquiries dates and times

- 6.1. The Inquiries are proposed to open at 10.00 hrs on Tuesday 10 March 2020. It is provisionally estimated that the Inquiries will sit for 8 days over 2 weeks. However, a better idea of the length of the Inquiries will emerge once estimates of the time needed for the various stages in the Inquiries have been provided and a programme has been drafted. More on this below.
- 6.2. The Inquiries will generally sit at the following times:
- Tues-Thurs: 10.00 hrs to about 17.00 hrs (with breaks for lunch between around noon and 13.00 hrs, and a short break at a convenient point mid-afternoon);
 - Fridays: 09.30 hrs to early-afternoon (with a shorter lunch break).

- 6.3. Once the Inquiries are underway the Inspector may decide to start earlier and/or finish later. Any changes to sitting times will be announced at the Inquiries.

7. Inquiries procedure and site visits

Inquiries procedure

- 7.1. The Inspector intends to follow the spirit of the *Highways (Inquiries Procedure) Rules 1994* and the *Compulsory Purchase (Inquiries Procedure) Rules 2007* (to the extent applicable). In general terms, this will involve the formal presentation of evidence by witnesses followed by questions in the form of cross-examination and re-examination. At this stage he envisages that the Inquiries will proceed as follows:

1. The Inspector's opening announcements and preliminary matters;
2. He will invite Highways England to make a brief opening statement, outlining its case, followed by the statutory objectors;
3. The parties may then give evidence in turn beginning with each of the witnesses for Highways England. The evidence of each witness will be open to cross-examination by opposing parties (who have given or will give evidence) and there may be re-examination to clarify answers given in cross-examination. The Inspector may put questions he has at any stage. They will be followed by witnesses for other supporters of the Orders and then witnesses for the objectors and finally any other interested parties.

If new matters are raised in evidence at the Inquiries by any objector, Highways England will have an opportunity to present rebuttal evidence after that party;

4. There will be a session to allow discussion of any proposed modifications to the Orders;
5. Each party who has given evidence may make closing submissions, summarising their cases in light of the evidence. This is not an opportunity to introduce new evidence. They may do this either at the end of their individual evidence or at the end of the Inquiries. Closing submissions at the end of the Inquiries will be heard in the following order: other interested parties; objectors; supporters; and finally, Highways England;
6. Before making his closing announcements, the Inspector will make any necessary arrangements for any final site visits; and,
7. The Inspector's closing announcements.

Site visits

- 7.2. The Inspector will familiarise himself with the land subject of the Orders and the surrounding area prior to the Inquiries (on an unaccompanied basis), and may make further such visits during or after the Inquiries.
- 7.3. If necessary he will make accompanied visits to relevant places during or after the Inquiries. The views of participants regarding the need for such visits were invited and the Inspector asked that any suggestions be forwarded to the Programme Officer. Arrangements would be made as necessary through the Programme Officer and announced later.
- 7.4. The Inspector emphasised that all visits would be for the sole purpose of observing the sites in question. He will not hear any evidence from the parties to the Inquiries on site or receive submissions on site. It is important that all that has to be said in evidence should be put at the Inquiries.

8. Main issues

- 8.1. In considering the proposed Side Roads Order the Inspector will wish to ascertain whether any relevant requirements of the associated sections of the *Highways Act 1980*, sections 14¹ and 125², have been met. That is:
1. In relation to the stopping up of highways, that another reasonably convenient route is available or will be provided before the highway is stopped up; and,
 2. In relation to the stopping up of private access to premises, that: no means of access to the premises is reasonably required; or, 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 section 125(1)(b) or otherwise.
- 8.2. In considering the proposed Compulsory Purchase Order, the Inspector will wish to ascertain whether there is a compelling case in the public interest and the purposes for which the Compulsory Purchase Order has been made sufficiently justifies interfering with the human rights of those with an interest in the land affected. In relation to these matters reference will be made to the Ministry of Housing Communities and Local Government *Guidance on compulsory purchase process and The Crichel Down Rules, 2019*, which draws attention to, amongst other things, the following:
1. Particular consideration should be given to the provisions of Article 1 of *the First Protocol of the European Convention on*

¹ Section 14(6) of the Highways Act 1980.

² Section 125(3) of the Highways Act 1980.

Human Rights and, in the case of a dwelling, Article 8 of the Convention.

2. The Acquiring Authority (AA) should have a clear idea of how it intends to use the land it is proposing to acquire;
 3. The AA should show that all the necessary resources are likely to be available to achieve the scheme purpose within a reasonable time-scale; and,
 4. The AA 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 impediments to implementation.
- 8.3. In considering the proposed Line Order, the Inspector will wish to ascertain whether any relevant requirements of the Highways Act 1980, section 10, have been met. That is:
1. Whether the purpose for which the Order is promoted is extending, improving and/or reorganising the Trunk Road system; and,
 2. Having taken into consideration the requirements of local and national planning, including the requirements of agriculture, that the proposal is expedient for the purposes intended.
- 8.4. The Inspector asked all parties to have particular regard to these matters, and to address explicitly all matters identified that are relevant to them in the presentation of their evidence. However, he stressed that the above list is not exhaustive and it does not preclude other matters from being raised if relevant.
- 8.5. The Inspector requested that Highways England respond explicitly to every objection, including those not the subject of representations at the Inquiries. Highways England indicated that whilst it would do so, its response to issues raised by more than one objector would be set out only once in its proofs, rather than being repeated for each objector. This being the case the Inspector requested that, accompanying the proofs of evidence, Highways England provides a document that identifies the sections of the proofs which deal with the particular objections raised on an objector by objector basis.
- 8.6. Discussion about matters of compensation and the merits of Government Policy are outside the scope of the Inquiries. However, the application of Government Policy to the scheme promoted may be a relevant consideration.
- 8.7. The Inspector recognises that in cases of this kind there is usually limited scope for formalising Statements of Common Ground. Nevertheless, it will be in the interests of parties to reach agreement on as many issues as possible, thereby enabling them to focus on matters of particular importance to them at the Inquiries. The Inspector confirmed that he would welcome written confirmation, as soon as possible, of areas where agreement has been reached, and where any objections are withdrawn as a result.

9. Nature, format and submission of evidence

Statements of Case

- 9.1. A Statement of Case has been submitted by Highways England and it confirmed that it has been circulated to all of the statutory objectors. This was not disputed by anyone at the meeting.

Core Documents

- 9.2. It is likely that some documents will be referred to by many parties at the Inquiries. Conventionally the 'common' documents are referred to as core documents. The expectation is that the appendices to the Highways England Statement of Case will form the basis of the Core Documents, and its adopted numbering system will be continued from that basis, A.1-H.10 onwards. These documents have already been submitted and a list has been published by Highways England on its website. This will be transferred to the Inquiries website. The Inspector would welcome suggestions, through the Programme Officer, for any further documents that could usefully be included as such in the published list of core documents. The Programme Officer will maintain the schedule of core documents.
- 9.3. It will save paper, time and expense if others wishing to refer to the core documents would simply refer to them (by document number and internal reference) in their evidence without the need to submit further copies.

Proofs of evidence

- 9.4. Where a party (whether Highways England, statutory objectors or others) proposes to give evidence at the Inquiries by reading from a document (known as a 'proof of evidence'), it must be submitted to the Secretary of State for Transport in advance of the Inquiries.
- 9.5. Proofs should be as succinct as possible, avoiding unnecessary or extraneous material which only serves to obscure the key points to be made. Additional evidence may be given orally, though as far as possible such material would better be included in proofs.
- 9.6. In accordance with the Inquiries Procedure Rules, if the proofs are longer than 1500 words, summaries of the proofs must be submitted at the same time as the proofs themselves. Summaries should be no more than 1500 words. Only summaries will be read at the Inquiries, but the full proofs will count as evidence and be open to cross-examination.
- 9.7. If, in evidence, reference is made to any other document, which is not included in the list of core documents, a copy of that document (or the relevant extract plus the cover page), must be submitted as an appendix to the proof of evidence. 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.

- 9.8. The Inspector urges parties to ensure that proofs of evidence and associated documents conform to the following guidelines:
- Document number on the top right corner of cover page and the spine;
 - Indicate on the cover page the name of the party on whose behalf the evidence is given, the name of the witness, relevant qualifications and the topic(s) covered;
 - Number all pages and paragraphs;
 - Text in at least 1½ line spacing;
 - Supporting material in appendices, bound separately from the proof (If ring binders/lever arch files are used, please do not overload them);
 - Summary bound separately or as a self-contained section in the proof.
- 9.9. All proofs of evidence (including summaries/appendices) should be submitted to the Programme officer and circulated to others (see copies below) not later than **Monday 17 February 2020** (*not later than 3 weeks before the Inquiries*).

Rebuttal proofs of evidence

- 9.10. There is no reference in the Inquiries Rules to rebuttal proofs. However, they can sometimes be helpful to deal with complex evidence raised for the first time in the proofs of evidence, particularly if they deal with points that could reduce the need for cross-examination and so reduce the Inquiry time. However, they should not be seen as an opportunity to gain a tactical advantage by deliberately withholding evidence until a late stage, which could have been included in the original proofs of evidence. If a party considers that it is likely to be necessary to submit a rebuttal proof, they should notify the Programme Officer of this in advance, giving details of their reasons. If rebuttal proofs are found to be necessary, they should be submitted to the Programme Officer and circulated to others not later than **Monday 2 March 2020**.
- 9.11. Insofar as relevant to their proposed Orders, the Inspector will expect Highways England to provide a written evaluation of the merits and practicability of any alternative proposed, whether it would meet the aims and objectives set for the original scheme, taking into account its costs and benefits and comparative impacts, such as on adjoining land owners.

Written Representations

- 9.12. The Inspector requested that if anyone intends to submit additional written representations rather than appearing at the Inquiries, they should be submitted to the Programme Officer and copied to the other parties, in the same way as main proofs, not later than **Monday 17 February 2020**.

Late representations

- 9.13. Everyone has a responsibility to meet the deadlines set for the submission of evidence. The procedure is designed to secure maximum disclosure and exchange of information before the Inquiries takes place, so the proceedings can be conducted efficiently and effectively. The Inspector will seek to ensure that no one gains a tactical advantage by deliberately withholding evidence until a late stage. For example, if late evidence is accepted, it may be necessary, if requested, to adjourn the Inquiries in order to give others the opportunity to consider that new evidence and prepare to deal with it.

Copies

- 9.14. The Inspector will require a hard copy of every document submitted. At the same time the Programme Officer will require 2 further copies for the Inquiries library/Secretary of State and an electronic copy for the Inquiries website. These should all be sent to the Programme Officer.
- 9.15. In addition, proofs must be exchanged between the parties entitled to appear at the Inquiries, a list of whom will be maintained by the Programme Officer. The default number of copies to be exchanged between parties entitled to appear at the Inquiries is **1**, but parties are urged to seek to agree between themselves on any greater numbers of copies to be exchanged, keeping the Programme Officer informed of any such agreements. She will need to be kept informed of exchanges that take place.
- 9.16. Until the commencement of the Inquiries a copy of every document submitted by Highways England may be:
1. Viewed on the Highways England project website (insofar as they are available electronically) at:
<https://highwaysengland.co.uk/projects/m2-junction-5-improvements/> ; and,
 2. Inspected, free of charge, at Sittingbourne Library Central Avenue, Sittingbourne, Kent, ME10 4AH.

Documents submitted in an electronic format to the Programme Officer can be viewed on the Inquiries website at:
<http://programmeofficers.co.uk/m2j5/>

Opening, closing and legal submissions

- 9.17. Those making closing submissions must provide the Inspector with a copy of these before they are read out at the Inquiries (2 copies for the Programme Officer). These should if possible be drafted with a view to incorporating them into his report as the case for the party concerned. However, the Inspector reserves the right to edit them and to add material drawn from evidence given orally or in documentary form. It would be helpful if copies in an unprotected electronic form could also be provided to the Programme Officer.
- 9.18. The Inspector also requires a copy of any legal submissions to be made (2 for the Programme Officer) and it would also help him if hard copies of the texts of opening submissions would be provided at the time of delivery.

10. Document numbering

- 10.1. Every document should be numbered. The numbering system should be kept as simple as possible, but numbers should be prefixed with an abbreviation to indicate the party (e.g. the objector, not the witness) on whose behalf it is submitted, followed by a sequential number. For example: for the first Highways England witness the documents might be numbered HE 1.1 (proof), HE 1.2 (appendices), HE 1.3 (summary) etc; and, for an objector such as OB/6-Mr Attwood OB/6 1.1 etc. Each party should agree their proposed approach in advance with the Programme Officer, in the interests of consistency and clarity.
- 10.2. Each party should keep an up-to-date list of their documents, providing a copy of the list to the Programme Officer at the beginning of the Inquiries with an update, if necessary, at the end.
- 10.3. In addition to the documents exchanged as indicated, a complete set of Inquiries documents will be available in the Inquiries library held by the Programme Officer throughout the proceedings. As many as possible will also be available on the Inquiries website, as indicated earlier.

11. Inquiries Programme

- 11.1. At present arrangements have been made for the Inquiries to sit for 8 days, 10-13 March and 17-20 March.
- 11.2. The Programme Officer will be contacting all parties who indicate that they intend to appear to gain information needed to draw up a programme for the Inquiries. In any event, the following information must be submitted to the Programme Officer by **26 February 2020**, by all those who intend to appear at the Inquiry to give evidence:
1. The duration of any opening and closing statements, if any are to be made;

2. The duration of evidence in chief for each of their own witnesses; and,
 3. The duration of cross-examination of each of the opposing parties' witnesses.
- 11.3. The Inspector will use that information to compile a draft programme for the Inquiries, which will be of benefit to all concerned and aid the smooth running of the proceedings and efficient use of time. He urged parties to be as co-operative as possible in this process.
- 11.4. The draft Programme will be available on the website and in the Inquiries Library when the Inquiries are sitting. It will remain in draft and be subject to change throughout the Inquiries. It is important that people appearing are available when required, and the onus will be on them to keep in touch with the progress of the Inquiries. If they are not at the venue when required, the Inquiries may proceed without them.

12. Other matters

Environmental Statement addendum

- 12.1. The Inspector asked Highways England to clarify its intentions as regards the potential submission of additional environmental impact assessment information referred to in the Statement of Case³, which may trigger a requirement for publicity of 'any other information' under the terms of the *Town and Country Planning (Environmental Impact Assessment) Regulations, 2017*. Highways England confirmed that it intends to submit an addendum to the Environmental Statement, which will relate to the Landscape and visual impact assessment as well as 3 proposed modifications to the scheme⁴. Highways England also confirmed its intention to publicise the proposed addendum.
- 12.2. The Inspector asked Highways England to confirm its proposed timescales for the publication of the proposed addendum no later than 9 January 2020 and emphasised the importance of: allowing adequate time for interested parties to respond to the new information/prepare evidence for the Inquiries; and, avoiding potential associated delays to the proceedings.
- 12.3. Following the meeting, Highways England has confirmed that it intends to publish the proposed addendum to the Environmental Statement by 24 January 2020.

³ Paras 8.5.9 and 8.3.17.

⁴ Attwood access, Evans land take and access, reconfiguration of the bellmouth at the Church Hill junction with the A249.

Statement of Case

- 12.4. The Inspector asked Highways England to clarify, by 9 January 2020, where the Road Safety Audit/Assessments referred to in para 8.3.9 of the Statement of Case are included in its appendices and, if they are not, if/when it intends to make them available. The Inspector also asked that Highways England check that the published documents are complete versions.
- 12.5. Following the meeting, Highways England has confirmed that the Road Safety Audit referred to will be uploaded to its website under reference number H.11 by 10 January, followed by the other documents.

Plans

- 12.6. The Inspector asked, for the purposes of the Inquiry into the Compulsory Purchase Order, that Highways England provide a plan(s) which overlays the plots on the scheme, to help inform the assessment of the necessary land take.

Documents held at Sittingbourne Library Central Avenue

- 12.7. Tracy Corbishley indicated that, when she visited, library staff appeared not to be well briefed on where to find the documents referred to in para 9.16 above. Highways England agreed to address this with library staff insofar as it is able.

I Jenkins

INSPECTOR
9 January 2020

APPENDICES

Appendix 1-Appearances

Highways England		Acquiring Authority and Orders Promoter
Rep at PIM	Emyr Jones of Counsel	
Rep at Inquiries	Emyr Jones of Counsel	
1) Christopher Roberts-Highway Engineering 2) Camelia Lichtl- Overview 3) Craig Shipley-Traffic and Economics 4) Adam Lawrence-Noise and vibration 5) Graham Woodward-Landscape 6) Neil Carpenter-Planning 7) James Cook-Biodiversity		

Statutory objectors⁵

Stockbury Parish Council		OB/71
Rep at PIM	Phil Woods, Chair of Stockbury Parish Council	
Rep at Inquiries	Phil Woods	
1) Phil Woods		

Kent Downs AONB Unit		OB/94
Rep at PIM	Katie Miller, Planning Manager	
Rep at Inquiries	Undecided (maintain objection, but may decide to rely on written representations, rather than appearing)	
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⁵ As identified by the Highways England Statement of Case.

Mr Kevin Attwood		OB/6
Rep at PIM	Kevin Attwood	
Rep at Inquiries	Undecided	
1) TBC		

Mrs Lilian Attwood & Miss Stella Attwood		OB/102
Rep at PIM	Kevin Wood	
Rep at Inquiries	Undecided	
1) TBC		

Mrs Evans		OB/8 & 97
Rep at PIM	Tracy Corbishley	
Rep at Inquiries	Undecided	
1) TBC		

Non-statutory objectors

Tracy Corbishley		OB/92
Rep at PIM	Tracy Corbishley	
Rep at Inquiries	Tracy Corbishley	
1) Tracy Corbishley		

The British Horse Society		OB/105
Rep at PIM	Sarah Rayfield	
Rep at Inquiries	Sarah Rayfield	
1) Sarah Rayfield		

Other interested parties

Kent County Council		-
Rep at PIM	Colin Finch	
Rep at Inquiries	TBC (expected to be a 'watching brief' only)	
-		