

**FAO: Mr S Dean MA MRTPI (The Inspector)  
c/o, National Transport Casework Team  
A511 Public Inquiry**

**REF: A511 Growth Corridor Scheme Public Inquiry**

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# **PROOF OF EVIDENCE**

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**ON BEHALF OF**

**Wilson Enterprises Limited, Unit R, Ivanhoe Park Way, Ashby-de-la-Zouch,  
Leicestershire LE65 2AB and associated parties**

IN RELATION TO

**THE LEICESTERSHIRE COUNTY COUNCIL (A511 GROWTH CORRIDOR) COMPULSORY PURCHASE ORDER 2023 under Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 and the Acquisition of Land Act 1981.**

**And**

**THE LEICESTERSHIRE COUNTY COUNCIL (A511 GROWTH CORRIDOR) (SIDE ROADS) ORDER 2023. This is an Order under Sections 14 and 125 of the Highways Act 1980.**

The freehold interest in Plot Numbers 037 and 038, all shown on Drawing Reference BARDON ROAD PLOT PLAN LCC-A511-GCC-PP-BR VERSION 1 within the Orders and collectively known as LAND AT HUGGLESCOTE, COALVILLE, held under Title LT479992.

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## PUBLIC INQUIRY

**THE COMPULSORY PURCHASE (INQUIRIES PROCEDURE) RULES 2007 - SI 2007 NO 3617 ("the 2007 Rules")**

**THE HIGHWAYS (INQUIRIES PROCEDURE) RULES 1994 - SI 1994 NO 3263 ("the 1994 Rules")**

TO BE HELD ON 11<sup>th</sup> JUNE 2024

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Prepared by [REDACTED], Fisher German LLP

- 1.0 A formal objection was made on 5<sup>th</sup> January 2024 by Fisher German LLP on behalf of the aforementioned parties. The objection is in respect of all Orders which adversely affect our clients' property and/or interests as set out above.
- 2.0 Without prejudice to the generality of the objection, the purpose was to address the following issues:
- Severance creating potential ransom situations / problems for access to the retained land. Interaction between the new link road and the spine road of the adjacent development on retained land being unclear.
  - Unnecessary permanent land take in respect of plot 038 and lack of detail on potential alternative temporary arrangements. Insufficient clarity on mechanism for occupation of land on a temporary basis.
  - Sterilisation of consented development land and land subject to a live planning application;
  - Lack of sufficient detail on future maintenance, drainage and accommodation works arrangements.
- 3.0 Specifically, the Orders as proposed would result in the permanent acquisition of plot 038 which is only required temporarily by Leicestershire County Council (LCC) for the purposes of facilitating construction of an attenuation pond within plot 037.
- 4.0 Wilson Enterprises Limited (WEL) object to the permanent acquisition of plot 038 which would sever the internal road network and result in the loss of a main turning head as well as the inability to construct 13 dwellings on the WEL retained land subject to Approved Outline 16/01187/VCIM and Reserved matters 22/00098/REMM permissions for 228 dwellings.
- 5.0 WEL require plot 038 to be reduced in size and occupied temporarily by LCC under separate agreement for the purpose outlined at 3.0 aside from the small extent between plot 037 and plot 036 which they have requested be incorporated in to plot 037 to form part of the land acquired permanently for the attenuation pond. The revised extent of plot 037 incorporating this additional element of plot 038 is shown coloured purple on plan CPO/ S106 Plan Whole Site Rev D appended to this proof of evidence.
- 6.0 WEL require modification of the Order to remove plot 038 on this basis with any temporary occupation of part according with the northern extent of the planning permissions stated at 4.0 to ensure no encroachment of the occupied area into the retained land development area and to enable construction of the 13 dwellings currently sterilised under the Orders as proposed.

- 7.0 Furthermore land within plots 037 and 038 is the subject of a live planning application 22/01529/FULM, which has been designed to sit alongside the pond and link road. The application covers a further 150 dwellings and associated infrastructure. Whilst in outline (access only considered at this stage), the illustrative layout/masterplan for this area of the site would not be deliverable until any such land proposed to be acquired is returned to WEL, seeing a loss of 28 properties and an inability to provide adequate access arrangements into the already consented scheme which would see access severed and removal of pedestrian/cycle connectivity where it relies on access from the Spine Road and alongside the pond area.
- 8.0 Discussions on the LCC scheme design were instigated by WEL in February of 2020 and our client objects to the inclusion of Plot 038 in the Orders when early engagement was sought and the desire to agree permanent and temporary land requirements voluntarily was expressed at an early stage. WEL contend that LCC have not engaged adequately or in a timely manner and, whilst the limitations on temporary land take under a CPO are acknowledged, the ability to acquire land temporarily by way of private treaty has been available to LCC for some time.
- 9.0 Fisher German issued email correspondence to Bentley Project Management on 27<sup>th</sup> September 2023 making LCC aware that arrangements for the acquisition of the WEL land required permanently / temporarily to deliver the A511 Growth Corridor Scheme were already agreed under the existing S.106 agreement between the parties.
- 10.0 Fisher German further advised in the same correspondence that the provisions of the S.106 enable LCC to agree the extent of permanent and temporary land required outside of any compulsory purchase scenario and release at an early stage any additional land currently safeguarded for a link road purpose under the S.106. A meeting was sought with LCC representatives to agree permanent / temporary acquisition and accordingly release surplus land on this basis.
- 11.0 Further email correspondence was issued to Bruton Knowles on the 17<sup>th</sup> October 2023 and 27<sup>th</sup> October 2023 seeking a meeting as per the email to Bentley Project Management dated 27<sup>th</sup> September 2023.
- 12.0 Bruton Knowles responded via email on 15<sup>th</sup> November 2023 seeking availability for a meeting with Fisher German and WEL as per the request and a meeting was held between the parties on the 23<sup>rd</sup> November 2023.
- 13.0 Fisher German and WEL reiterated the position put to Bentley Project Management previously in the meeting with Bruton Knowles and set out basis for progression on S.106 principles.

- 14.0 WEL received formal Compulsory Purchase Order correspondence from LCC solicitors on the 30<sup>th</sup> November 2023 which detailed permanent acquisition of land required temporarily under the S.106.
- 15.0 Permanent acquisition of land that is only needed temporarily will create the issues set out at 2.0 resulting in an increased compensation liability for LCC when a mechanism already exists for securing land required on a permanent / temporary basis and releases land not required, all on previously agreed terms documented under the S.106 agreement.
- 16.0 As a consequence, Fisher German were instructed to make a formal objection to the Orders as per 1.0 in order to protect the WEL position whilst efforts were continued to progress acquisition in accordance with the pre-existing agreement.
- 17.0 The parties then met on the 12<sup>th</sup> February 2024 to discuss requirements for withdrawal of the Formal Objection and Fisher German LLP issued Heads of Terms on the 13<sup>th</sup> March 2024 setting out a basis for agreement broadly consistent with S.106 provisions.
- 18.0 Bruton Knowles issued amended HoTs on the 10<sup>th</sup> April 2024 and the parties met on the 16<sup>th</sup> May to seek consensus to enable a binding agreement on any permanent / temporary acquisition and release of surplus land on a basis that would enable withdrawal of the Formal Objection.
- 19.0 Bruton Knowles provided further amended HoTs on the 24<sup>th</sup> May as a consequence of the meeting on the 16<sup>th</sup> and the parties met again on the 30<sup>th</sup> May to discuss the same.
- 20.0 A basis for progression was agreed in principle in the meeting of the 30<sup>th</sup> and the parties solicitors are presently seeking to finalise the HoTs to enable a formal letter of assurance to be issued as open correspondence by LCC.
- 21.0 Upon receipt of such correspondence in an acceptable form WEL will be in a position to withdraw their formal objection to the Orders however until this has been received it is necessary to maintain the existing formal objection to the A511 Growth Corridor Scheme. This is the reason for the submission of this Proof of Evidence by the stated revised deadline agreed with the Inspector.

## **Summary**

- i. The LCC Statement of Case asserts that the inclusion of Plots 037 and 038 in the CPO is necessary to deliver the A511 Growth Corridor Scheme in the absence of any voluntary agreement on permanent / temporary land take between the parties. This is

not the case as a legal basis for temporary and permanent acquisition already exists under the S.106 agreement and thus compulsory acquisition is not necessary in respect of Wilson Enterprises Limited interests.

- ii. Our client objects to the permanent acquisition of plot 038 and continues to seek assurance that all land required temporarily by the scheme will not be acquired permanently with the freehold interest in these extents retained by them post-scheme.
- iii. Our client further seeks assurance that any land safeguarded by the existing S.106 agreement will be released promptly following completion of the aforementioned binding agreement detailing the agreed permanent and temporary land take arrangements concerning part of the land to be released.
- iv. Written assurance to this effect made as open correspondence will be sufficient to enable the formal objection to be withdrawn.
- v. Our client is prepared to enter into a temporary licence with LCC in a form to be agreed in order to facilitate temporary occupation of the necessary extents by the required scheme programme dates.

For the avoidance of any ambiguity, agreement between the parties has not been concluded as at the date of issue of the Proof of Evidence and so WEL are maintaining the objections to the scheme pending the conclusion of satisfactory discussions with LCC.

Our client continues to engage with LCC in order to reach consensus on these remaining issues and, subject to agreement of suitable wording and associated terms, can confirm that written assurance detailing the same in open correspondence will be sufficient to enable the formal objection to be withdrawn.

This position statement is provided as a result of LCC not providing the requested assurances prior to the Public Enquiry revised Proofs of Evidence deadline of 31<sup>st</sup> May 2024.

Signed:



  
Associate Partner  
For and on behalf of Fisher German LLP