

OPENING REMARKS ON BEHALF OF LEICESTERSHIRE COUNTY COUNCIL IN RESPECT OF THE A511 GROWTH CORRIDOR SCHEME.

Introduction.

1. The Inspector has, as part of the formal opening of the Inquiry, identified the Orders that are being considered at this inquiry. Accordingly, in opening I do not need to describe those Orders in detail but rather I will seek to identify the purpose of each element and the statutory powers by reference to which they must be justified so as to assist objectors to direct their objections to the relevant orders and to relevant grounds of objection. In setting these various matters out in some detail at this stage of the proceedings I would hope that there will be no requirement to return to them in any detail in closing given the likely duration of the Inquiry.
2. There are two orders before this Inquiry, and they consist of the following: -
 - (i) The Leicestershire County Council - (A511 Growth Corridor) (Side Roads) Order, 2023; the “SRO”.
 - (ii) The Leicestershire County Council - (A511 Growth Corridor) Compulsory Purchase Order, 2023; the “CPO”.
3. Those two Orders, with their specific titles are drafted in the appropriate technical language required to meet the provisions of the applicable forms and Statutes. In respect of all such Orders there are specific technical steps that have to be complied with and specific forms to be followed. The promoters of such Orders are frequently asked by an Inspector, at the start of an inquiry of this type, to confirm that all necessary statutory procedures and formalities have been complied with. That is to ensure that the Council has complied with the relevant requirements. In respect of these two Orders I respond, on behalf of the Council, by indicating that they have been to the best of our knowledge and belief.
4. Given the necessary formal nature of the two Orders they sound complicated and potentially difficult to comprehend. The position can, however, be easily understood, and any objection can be properly targeted, if we look at the two Orders in the following way: -

(i). The purpose of the SRO is to maintain access to all land and property directly affected by the Scheme and it makes the necessary changes to the highway network. Necessary in that context means that required to meet those requirements arising from the planning permission as applied for and as now issued to provide for the Scheme or the use of other available powers under the permitted development rights. In respect of this Scheme the planning permission is given by the original application (see documents P1 and following), the section 73 permission (see document P27) along with the use of the permitted development rights. The SRO provides the means by which rights are removed and new rights created sufficient to cater for the effects of the Scheme. Any objection to the SRO will be considered at the inquiry but in doing so it will now have to be examined in the light of the existence of the planning permission for the Scheme itself. The essential test in looking at the SRO is whether the power given by Section 14 to deal with roads crossing the road or Section 125 dealing with private means of access to premises have been dealt with appropriately. In respect of section 14 the order stopping up the highway cannot be made unless *“the Minister is satisfied that another reasonably convenient route is available or will be provided before the highway is stopped up”* and in respect of section 125 the order can only be made if no access is reasonably required or another reasonably convenient access is available or will be available. They are therefore the tests to be applied in seeking to make objections to the SRO. As presently advised and given the extent of the withdrawal of the objections made in respect of the Scheme it is not easy to identify what if any objection still remains in respect of the SRO.

(ii). The CPO provides the means by which the land can be acquired to allow the Scheme to be provided. The CPO has been drawn to reflect the position as shown in the planning applications originally made in respect of the Scheme and as now shown in the planning permissions that have been granted together with those areas where permitted development rights are being used. This includes that required for all aspects of the Scheme including the provision of the new link road as well as alterations to those other areas identified within the Scheme overall along with necessary landscaping and appropriate drainage measures. The CPO therefore allows for the land required for the Scheme. As such it does contain all the land needed to allow the Scheme to proceed and therefore the acquisition is essential. Without that land acquisition the Scheme could not proceed and that is what provides the

justification. It also includes the area of land over which rights only are required to enable the Council to build the Scheme and to provide for any replacement facilities such as to cater properly for drainage matters.

The principles that apply in relation to the use of compulsory purchase powers are well established and have been set out in a variety of guidance notes and documents over the years. They were set out clearly in Circular 06/2004 where a series of questions were posed that had to be answered to justify the position. Today the guidance is contained in Guidance on Compulsory Purchase Process and the Crichel Down Rules, most recently updated on the 16th July 2019. The guidance can be summarised to help objectors in the following way: -

(i). A CPO should only be made where there is a compelling case in the public interest. Is there a compelling case in the public interest to justify the acquisition and the disturbance of the owner's rights? In this case given the support for the Scheme from a wide range of stakeholders and the lack of opposition to the principle of providing the elements contained within the Scheme and particularly the new Bardon Link Road to allow for current as well as additional usage by way of growth and additional residential development, the answer is yes.

(ii). Does the purpose for which the CPO is being brought forward justify the interference with the Human Rights of those with interests in the affected area including the owner? Given the essential need to address the safety considerations, accommodate the present and future traffic and to allow access to locations south of the railway line, the answer is yes.

(iii). Does the acquiring authority have a clear idea of how it is intending to use the land acquired? In respect of all the land within the CPO the answer is yes. The land acquisition justification relates exactly to the detail of the areas contained within the planning permissions as applied for and now granted, but for two locations, and as such the position could not be clearer. The two locations are those two areas where the Council is intending to invite consideration of modifications to withdraw areas. That is because following consideration it has been decided that those areas are no longer required as other arrangements can be made and as such the CPO is being promoted to reflect that changed situation. The proposals have been developed over a

period of time dating back over many years, although investigations had been undertaken prior to that time going back as far as 2008. That development has included an assessment of all the relevant circumstances and the decision to proceed has been made by the relevant body within the Council; documents within the section numbered SA 1 to 10 apply. That historical development proves however that the Council has, as the promoter of the CPOs a very clear idea as to why the land is required and what it will be used for.

(iv). Can the acquiring authority demonstrate that the resources to carry out the plans within a reasonable timescale exist? Once again, this question is answered positively. All necessary planning permission and or consent exists for the Scheme and the detailed design works for it will continue to fine tune the proposals in order to meet the planning conditions on the permission. Further the Council is keen to progress the matter and has a target commencement date in mind of May 2025, subject to the outcome of this Inquiry, in order to ensure that it falls within the funding arrangement that are in place. The level of detail given about the funding arrangements gives confidence in the Scheme going forward.

(v). Are there any impediments which are likely to interfere with the progress of the Scheme? There are no known impediments to the Scheme progressing and funding is in place as described in the evidence. In fact, the estimated cost of the Scheme, which has been assessed recently and is referred to in section 11 of Ms Carruthers evidence in the form of an anticipated range, will be funded from identified sources, which are also identified in section 11 of that same evidence. The funding package is secure and will be available within the indicated timetable for development.

Accordingly, the guidance as contained within 2019 version of the advice is met.

5. Collectively these two Orders form the Scheme in respect of which objections and representations are being considered by the Inquiry. There is a very significant matter that arises from what has been set out so far and that is that neither of the Orders actually provides for the Scheme itself. In highway terms there are two ways in which a scheme can be brought forward, the first is through the promotion of a Line Order which gives consent for the line of a road and is usually used by National Highways in promoting schemes and the second is through the use of planning powers under the Town and Country Planning Act 1990. The more applicable of those two options in

this situation is the use of the planning powers which are available to the County Council.

6. Accordingly, the reason why those two Orders do not provide for the Scheme itself is that planning permission exists for the Scheme and there is no application for that before this inquiry. In respect of a significant element of the works permitted development powers are being utilised as they are relatively low-key works to change the existing carriageways within those powers given by Parliament to Highway Authorities. In addition, there is the planning permission for parts of the Scheme where such permitted development rights do not exist and that relates largely to the new Bardon Link Road from Bardon Road to cross the railway before linking though to the Spine Road, which is being provided as part of the residential development to the south and which is currently under construction. The planning application for the Bardon Link Road was made in May 2022, accompanied by a full range of supporting documents and was subsequently granted consent. Following further assessment and a desire to reduce the impact of the Scheme, especially in respect of land take a variation of that consent was applied for using the section 73 powers which was itself granted in September 2023. The reason why the second permission proved to be necessary was that the County Council was keen to ensure that the effect of the Scheme was kept at a level which minimised intrusion into other interests, such as the provision of housing south of the railway line. Taken together those consents provide for the Scheme and identifies the purpose to which all the land to be acquired is to be put.
7. Accordingly, all the required consent, either through planning permission or the use of other powers necessary to provide the Scheme is in place and the Orders before this inquiry that are presented for examination are, in effect to provide the means that the planning permission is to be brought into effect.

The Planning Permission

8. The availability of the planning consent could therefore be taken as the starting point for the consideration of matters before this Inquiry, but it is important to note that the planning permission is not before the Inquiry. Accordingly, objections made that may ultimately seek to strike at the planning permission are not matters that should require too much consideration at the inquiry. The matters that are before the inquiry are those

that relate to the two orders listed above which provide the means by which the Scheme can be provided.

9. In order to assist objectors to understand that more completely reference can be made to the current guidance in respect of such matters. The Planning Inspectorate has published the document Notes for the Guidance of Inspectors Holding Inquiries into Orders and Special Roads Schemes, which are intended to guide the approach to the consideration of relevant matters; core document list NP30. Although that is advice to Inspectors it is publicly available to ensure that everyone can familiarise themselves with the relevant approach.
10. In opening I would draw attention to three particular elements of that guidance to assist the Inquiry. The first is what it says in respect of the existence of planning permission in the context of a CPO objection (see paragraphs 2.9.1 and following), the second relates to questions of compensation (see paragraph 2.8.1) and the third to accommodation works (see paragraph 2.13.1). I refer to the second and third simply on the basis that we may hear from objectors who wish to raise such matters despite the fact that they have not yet been put forward as objections.
11. The guidance makes it clear that in situations where planning permission has been granted the effect of that will depend on the circumstances that apply. The simple grant of permission is regarded as being an indication that in land use terms the proposal is acceptable. In doing so, however, it does provide the basis against which decisions in respect of all matters within the SRO and the CPO need to be justified. The guidance continues by indicating the following. In circumstances where permission has been granted to reflect a proposal that has been identified through the Development Plan system and the detail is included in the relevant planning document then questions of need for the proposal are in effect already decided. In this case the proposal meets the ambitions in respect of the policy.
12. There has been no challenge in relation to the need for the Scheme as I understand the position and nor has anyone suggested it should be in a different place or in a different form. There is therefore nothing before the inquiry to suggest some form of alternative is being promoted. That really does amount to an acceptance of the Scheme before the inquiry and accordingly it is not necessary to consider the application of the Alternatives procedure as no such alternative suggestion has been made.

13. I turn to the second and third points, once again to seek to assist objectors. The second point relates to compensation. Paragraph 2.8.1 falls under the heading Compensation and Hardship. The paragraph recognises that hardship which cannot be met by compensation is a relevant factor in considering CPO's, although there is no evidence to support any suggestion that applies here especially given the recent communication from [REDACTED]. In addition, the advice does address compensation specifically. [REDACTED] makes it clear that his evidence is not addressing compensation. The reason for that is clear from the guidance, where in paragraph 2.8.1 it states: -

“the Acquisition of Land Act 1981 (schedule 1 paragraph 4(4)) provides that the SofS ... may disregard objections which relate to matters which can be dealt with by the Lands Tribunal, by whom compensation is assessed. Since the assessment of compensation is not a matter for the SofS .. the Inspector should neither hear evidence about the calculation of compensation nor seek disclosure of expected levels of compensation.”

14. Compensation is not therefore a matter for the inquiry to spend time upon.
15. The position is similar in respect of accommodation works. Paragraph 2.13.1 provides guidance in respect of that matter. It states: -

“Anyone affected by an order may put to the Inspector the nature and extent of the accommodation works which the affected person would expect to be carried out if a road proposal were to be implemented. He or she should be allowed to do so because what is said could have a bearing on whether what is proposed in the order before the inquiry should proceed with or without modification. However, the detail of the extent of the accommodation works is one of the factors taken into account in the calculation of the compensation payable when a proposal is approved. The precise details of the accommodation works are matters for the promoter of the order and the landowner concerned and should not therefore be included in the Inspectors conclusions or recommendations. The Inspector should take care to avoid conclusions or recommendations in his or her report which would appear to usurp the functions of the Lands Tribunal.”

16. Accommodation works are not therefore in reality a relevant consideration at this inquiry as no one has made any suggestion to change or alter the proposals within the Orders to modify them. All other considerations would fall to be considered at the later

stage. Having set that out there are a few matters that I would wish to address, albeit briefly in opening.

The Benefits of the Proposals

17. I can deal with this shortly in opening especially as the position is clearly set out in the documentation starting with the application and the supporting documentation and continues through the various Statements (Reasons and Case) and into the evidence.
18. The Council as the highway authority has a responsibility to monitor and maintain the network for which it is responsible. As part of that approach the Council has identified the need to make various changes to the network to ensure that it can operate efficiently and provide the best possible service. At the same time, the Council is keen to ensure that the Growth Corridor ambitions for this location can be met. The nature of those, what is required to achieve them and the benefits arising are clearly described in the evidence presented. The support for the Scheme, its ambitions, and the proposals themselves from the District Council is an important element in that context and reflects the significance of what is proposed.
19. The ambitions underlying the proposals can be boiled down into seven headings. These headings, which ultimately became the objectives which were identified taking into account national, regional, sub regional and local policy and strategy can be summarised in the following way.
20. Objective 1 was to make the journeys on the A511 faster and more reliable. The Scheme will achieve that by making capacity improvements at the junctions to help to alleviate existing congestion and provide for greater use.
21. Objective 2 is intended to provide a resilient and safer road network especially where road collisions occur. The improvement of junction design and increased capacity will help alleviate preexisting personal injury collisions clusters which will assist with meeting the ambitions of objective 2.
22. Objective 3 relates to improving the reliability and capacity of the existing road in respect of freight movements, which is an important consideration arising from the Growth Corridor. The location of the proposal at the heart of the “Golden Logistics Triangle” proximate to locations such as the East Midlands Gateway and developing

rail freight interchange facilities enhance the importance of this area which demands efficient movement.

23. Objective 4 covers development ambitions from the DC. The provision being made will assist with NWLDC policy ambitions to provide 3500 dwellings, along with significant growth in economic terms. That 3500 dwellings figure is part of an overall figure of 5275 and is to be provided south of Coalville to which the Bardon Link Road is the direct link. The significance of that is obvious.
24. Objective 5 is the intention to improve connectivity for all road users. At all levels, local through to strategic the proposals will achieve the ambition underlying the objective in reducing congestion, providing alternative more appropriate routes and greater capacity. It achieves that through the combination of measures proposed within the Scheme.
25. Objective 6 relates to the support to be given to the strategic road network. The improvements will achieve that by providing a resilient and reliable link between the M1 and the A42.
26. Objective 7 relates to air quality and noise advantages that can be achieved along the corridor. Once again, the Scheme with the changes envisaged will reduce the number of stationary vehicles, the length of queues and the routing of traffic along more suitable roads.
27. Given that the objectives were adopted as an ambition to what a scheme could achieve the assessment against those various matters demonstrate the advantage that will be seen to arise from the proposals. It is not at all hard to see why the proposals within the Scheme have received the support from some and the lack of opposition from others that is evident from the representations made to this inquiry.
28. The essential question therefore is how to deal with that situation in the most appropriate way. The Scheme, for which permission exists and which drew very little criticism prior to planning permission being granted is the best way for that to be improved. The Scheme will provide improvements to a number of specific and identified locations as well as providing a much-modified roundabout at Bardon Road and the provision of the Link to connect through to the spine road of the residential development beyond. That approach will enable advantageous changes to the existing

traffic, which can thereby make greater use of the higher quality roads for their journeys as well as enabling additional development to come forward.

29. The Council has undertaken a financial appraisal of what it is intending to do. The figures represent a significant advantage overall with a BCR (benefit of cost ratio), namely the return on spending the money even given the increase in costs. The initial BCR was shown as 1.9 but with journey time reliability benefits and wider economic impacts included gave an adjusted BCR of 2.6. This demonstrates that the Scheme offered medium to high value for money when considered against the DfT's value for money categories. That is a point worth making in opening as it represents good value for money which arises directly from the improvement in safety, traffic flow and convenience that will come about with the Scheme.

Modifications

30. I add a short comment about modifications just to ensure that the process is understood and to enable any one with anything relevant to add to be able to address it.
31. The Orders before this inquiry are currently presented in draft. The opportunity exists, provided any change does not amount to a fundamental alteration of what is proposed, to amend those orders to improve them. Improvement in that context means a change to make them clearer, more precise, and perhaps more certain. The Council has noticed that some modifications should be made to some part of the orders and the Department has also indicated where some matters can be improved.
32. A note of any such changes will be produced for consideration at the inquiry. The note will be kept open throughout the inquiry in case any additional matters arise.
33. As presently advised the County Council believes that all such modifications have been identified and considered in the pre-inquiry correspondence when taken together with the Council's recognition that matters can be improved in three specific locations, where land can be removed as not being required given that alternative provision can be made, addresses what is required. That does not alter the intention to keep the matter open should any further opportunity present itself to improve the Scheme before the inquiry provided it does not give rise to a fundamental alteration to the Scheme itself.

Objections

34. It is not the function of these opening remarks to seek to address in any detail the objections raised in respect of the Scheme. All I would wish to point out is that the Council will seek to place before the Inquiry all relevant material to allow the objections to be considered properly and fairly. I have tried to assist in that by setting out the relevant tests to be applied to the Orders and to indicate that the planning consent is not before this inquiry.
35. Originally seven objections were registered against either the CPO or the SRO or a combination of both. The Council has gone to great lengths to seek to address the objections raised and I am pleased to record that many have subsequently been removed. The Inquiry will be able to consider what is left, which will include an identification of what is actually being brought forward and any consequences arising from it.
36. As presently advised, there is only one remaining objector that would need to be considered at the Inquiry following the cooperative and helpful approach adopted by the Council in dealing with anyone affected by these Orders. The objections will be examined, and I will comment in closing in respect of that should those objections remain.

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