



The Planning
Inspectorate

Report to the Secretary of State for Transport

by John Wilde CEng MICE

an Inspector appointed by the Secretary of State for Transport

Date: 26 January 2021

HIGHWAYS ACT 1980

and

ACQUISTION OF LAND ACT 1981

**THE GLOUCESTERSHIRE COUNTY COUNCIL GLOUCESTER SOUTH WEST
BYPASS (LLANTHONY ROAD SECTION) COMPULSORY PURCHASE ORDER
2019**

Inquiry held on 24 November 2020

File Ref: NATTRAN//SW/HAO/217

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Abbreviations

ALA	Acquisition of Land Act
BK	Bruton Knowles
CD	Core Document
CPO	Compulsory Purchase Order
DfT	Department for Transport
FBC	Full business Case
GCC	Gloucestershire County Council
GSWB	Gloucestershire South West Bypass
LEP	Local Enterprise Partnership
HA	Highways Act
Sqm	Square metres

CASE DETAILS

- **The Gloucestershire County Council (Gloucester South West Bypass (Llanthony Road Section) Compulsory Purchase Order 2019 (CPO) made under sections 239 and 246 of the Highways Act 1980 (HA), would be confirmed under Section 8 of Schedule 1 of the HA and Section 13A of the Acquisition of Land Act 1981 (as amended) (ALA).**
- The Order has been made for the purposes of:-
 - a) The improvement of the north eastern section of the A430 Llanthony Road from its junction with St Ann Way to Castlemeads Way Gloucester;
 - b) Mitigating any adverse effect which the existence or use of the improved A430 Llanthony Road has or will have on its surroundings.
- The Draft Order was published on 13 November 2019, and there were two statutory objections outstanding at the commencement of the Inquiry.

Summary of Recommendation: That the Order be modified and confirmed

PREAMBLE

1. I was appointed by the Secretary of State for Transport to conduct the Inquiry in accordance with paragraph 7 of Schedule 1 of the Highways Act 1980 and Section 13(2) of the Acquisition of Land Act 1981.
2. The Local Inquiry was held virtually on 24 November 2020 for the purpose of hearing objections to the proposed CPO. At the opening of the Inquiry the applicant confirmed compliance with all statutory formalities for the publication of the Order and the notification of the Inquiry. I carried out an unaccompanied site visit of the Order Land and the surrounding area on 23 November 2020.
3. The proposed scheme would result in the widening of the A430 Llanthony Road between the junctions of that road with St Ann Way and Castlemead Causeway, thus completing the final phase of the A430 Gloucester South West Bypass that was first opened to traffic in 2007.
4. The purpose of the proposed CPO is to enable Gloucestershire County Council to acquire the rights and titles to land in order to construct the scheme.

Responses

5. At the opening of the Inquiry there were two outstanding objectors, Donaldson Investments Ltd (plot 1), and Jeremy Timms and Jeremy Timms trading as Hempsted Motor Company (plots 6 and 8). Neither party attended the Inquiry.
6. Following the closure of the Inquiry and during the period allocated for writing this report a letter, dated 27 November, was received from agents acting for

Donaldson Investments Ltd withdrawing their objection. This letter is included as document 28. I have therefore dealt only briefly with this objector's concerns in my conclusions.

Scope of this report

7. This report contains a brief description of the site and its surroundings, the gist of the evidence presented and my conclusions and recommendations. Lists of inquiry appearances and documents are attached as appendices.

DESCRIPTION OF THE ORDER LAND AND ITS SURROUNDINGS

8. The Order Land, which lies to the south-west of central Gloucester, comprises about 7220 Sqm of land, and is made up of several parcels of land lying to the north-west of, and bordering, Llanthony Road (A430). The largest parcel of land (plot 3) is a multi-let industrial and office complex and its road frontage. The other parcels comprise the frontages/forecourts of other businesses that are used primarily for parking for, and access to, those businesses. The proposed road scheme would utilise the Order Land to widen the existing road between the junction with St Ann Way to the south and the entrance to an existing industrial estate to the north.
9. The area surrounding the Order Land comprises mixed industrial, commercial and residential development, with many of the businesses, including Gloucestershire College, having direct frontage access onto the road.

MODIFICATIONS

10. As a result of changes made to the scheme (see below) the proposed alignment of the widening has been altered in front of plots 1, 5, 6 and 8. This has resulted in some of the areas being incorrect on the original Order Map. There are also other minor modifications as outlined on the Proposed Modifications Table (document 22). These Modifications are generally minor in nature and do not, to my mind, prejudice the interests of any parties associated with the CPO.

THE CASE FOR GLOUCESTERSHIRE COUNTY COUNCIL (GCC)

The material points were:

Background and design

11. The proposed improvements to the Gloucester A430 South-West Bypass (GSWB) have been a long stated priority, with the need for the upgrade being high profile since the completion of the initial sections of the bypass¹. The proposed scheme would be the final phase of the bypass². At present the section in question is a significant congestion point and is under-designed with only two traffic lanes. As a result of this traffic is forced onto alternative routes through the city centre, causing congestion, reducing journey time reliability and creating potentially unsafe environments. There are about 25,000 vehicles a day using the bypass

¹ Statement of Case paragraph 7.1

² POE Suemul 4.1.1

and it is estimated that up to 50,000 people would benefit from improvements to this section of road³.

12. The area is flanked by the River Severn and consequently the optimisation of the existing network has become critical and the current underperformance of the bypass is heightened⁴.
13. There are concerns that this length of bypass will increasingly act as a limiting factor to future investment. The proposed scheme is reacting to significant redevelopment in the immediate area and across Gloucestershire, including proposals as part of the Joint core Strategy and developments within Gloucester and the surrounding area⁵.
14. In recent years Gloucester Quays and Gloucester Docks have seen significant private investment for both residential and commercial schemes. Such continued investment is significantly more likely if the transport infrastructure does not create a barrier or capacity constraint⁶.
15. The scheme would allow the two northbound lanes to be extended further north, from the two lane merge at the junction at Spinnaker Road to the existing two lane merge north of the Llanthony Road junction⁷.
16. Four options for the improvement works were considered in the Full Business Case (FBC), although two of these were not taken forward as they were not considered to show sufficient benefits⁸. The chosen option was Option 1, as detailed above. It was not possible to consider widening on the south-eastern side of the carriageway due to the presence of the Llanthony Secunda Priory, which is a Scheduled Monument with historic listed buildings⁹.
17. Several objectors raised concerns relating to the proposed road alignment which they considered would have a significant detrimental impact on the ability of their businesses to continue to operate¹⁰. These concerns included the ingress, egress and movement and parking of vehicles to the front of their premises¹¹.
18. It was concluded that these concerns could be addressed by amending the engineering detail of the scheme. These amendments could be achieved within the existing Order Land and/or land that was the subject of the planning permission (i.e. the redline plan)¹².
19. Firstly, the area required to manoeuvre a long wheel-base vehicle on the frontage of plot 1 could be addressed by amending the kerb alignment and

³ Statement of Case paragraphs 7.2

⁴ Statement of Case paragraph 7.3

⁵ Statement of Case paragraph 7.5

⁶ POE Suemul 4.1.6

⁷ POE Macaulay-Lowe para 2.11

⁸ Full Business Case 1.4

⁹ POE Suemul 4.4.3

¹⁰ POE Elliford 4.2

¹¹ POE Elliford 4.3 - 4.5

¹² POE Elliford 5.1 - 5.2

adopting a small reduction in carriageway lane widths and remodelling the central splitter island in Llanthony Road, whilst still retaining highway design standards¹³.

20. Secondly, the scheme was amended so as to maintain a vehicular access route around the corner of the property belonging to Objector No 4, Mr Timms trading as Hempsted Motor Company. This reflected the legal right of way for vehicles accessing premises fronting Sudmeadow Road and also provided Mr Timms with a more direct access to his workshop facility for clients¹⁴.
21. Revised carriageway alignment proposals addressing and resolving these matters were issued to agents acting for the objectors on 6 April 2020. The Acquiring Authority can therefore demonstrate that it has taken all reasonable steps to address the objector's various concerns and made fair and reasonable proposals to the freeholders and occupiers to assist with the ongoing management of the site following completion of the scheme¹⁵.

Benefits of the scheme

22. The A430 is classified as a primary link by GCC and is therefore critical to the local economy. It provides strategic access linking the A40 to junction 12 of the M5 and enabling access to the Gloucester Quays mixed use development and diverting traffic from central Gloucester. The bottleneck caused by the narrowing of the carriageway at Llanthony Road causes congestion and prevents the bypass from operating at its full capacity¹⁶.
23. The proposed scheme would reduce traffic congestion along the A430 Llanthony Road corridor by increasing traffic flow capacity with additional lanes and designated filter lanes. Demolition of the buildings forming the City Business Centre would also allow replacement car parking to be provided to replace that lost from premises fronting Llanthony Road and provide sufficient working space for the scheme to be carried out¹⁷.
24. Proposals also include the improvement to pedestrian crossings as well as the widening of pedestrian and cycle facilities to link with those already in place at either end of the scheme¹⁸.
25. The key objectives identified by the Local Enterprise Partnership (LEP) are as follows¹⁹.
 - Reduce congestion on the GSWB corridor and key linkages to it between Cheltenham and the Forest of Dean;

¹³ POE Ellingford 5.3

¹⁴ POE Ellingford 5.4

¹⁵ POE Ellingford 5.7 – 5.8

¹⁶ Full Business Case 1.3

¹⁷ POE Macaulay-Lowe para 2.12

¹⁸ POE Macaulay-Lowe 2.11

¹⁹ Full Business Case 1.2.3

- Reduce economic disadvantage on the GSWB corridor and key linkages to it between Cheltenham and the Forest of Dean;
- Alleviating congestion by addressing congestion hotspots on and in association with the GSWB corridor between Cheltenham and the Forest of Dean;
- Improving access between the west of Gloucester and the identified strategic employment growth site at Innsworth, north of Gloucester;
- Maximise economic productivity and efficiency;
- Address bottlenecks within the transport network, particularly where these are predicted to worsen and put a brake on economic recover;
- Improve access to skills, jobs, goods and services.

26. Modelling to inform the economic case was done as part of the FBC and the proposed scheme will significantly improve productivity by reducing travel time for users of this corridor by up to five and ten minutes for the peak periods. Using economic methodology in accordance with national guidance shows that there would be a net Present Value Benefit of £64M to the local economy over a 60 year appraisal period, with a Benefit Cost Ratio of 12, representing very high value for money²⁰.

Planning and policy

27. The importance of capacity improvements along the corridor were identified in Gloucestershire's Strategic Economic Plan V.2.0 (CD 6) in 2018 and the scheme is included within the current adopted Local Transport Plan (2015-2031) (CD 7)²¹. This section of the GSWB has also been identified as a network pinch point in Gloucestershire's 2014 Strategic Economic Plan²². A Full Business Case (FBC) assessment has been undertaken to optimise the design and ensure that the final scheme delivers best value for the public, local businesses and all other partners and interested parties²³.

28. The scheme was granted planning permission under reference 18/0052/GLR3MJ on 10 April 2019²⁴. The planning documents submitted in support of the scheme included a Planning Statement, a Statement of Pre-Application Community Engagement, an Environmental Statement, a Health Impact Assessment and an Equalities Impact Assessment²⁵. The project is included in the Council's Capital Programme for 2020/21²⁶.

Funding

²⁰ POE Macaulay-Lowe 4.4

²¹ POE Suemul paragraph 4.2.1

²² POE Suemul paragraph 4.2.3

²³ POE Suemul paragraph 4.3.1

²⁴ POE Macaulay-Lowe paragraph 5.4

²⁵ POE Macaulay-Lowe paragraph 5.2

²⁶ POE Macaulay-Lowe paragraph 4.8

29. On the basis of the strong value for money case for the proposed scheme the LEP awarded £2M of funding towards the cost of the project in March 2018²⁷. Following the completion and subsequent approval of the FBC, GCC has drawn down on the LEP funding in line with appropriate milestones²⁸. The remaining Capital Budget of £5,479,000 will be funded from the Council's capital programme or any other successful external grant that the Council can access between now and the project completion²⁹.
30. On completion of the procurement process – currently programmed for spring 2021 – a preferred contractor will be selected to ensure that mobilisation and construction of the road can commence without delay subject to confirmation of the Order and cabinet approval³⁰.

Consultation

31. The Order is needed to secure implementation of the scheme and the Council cannot achieve its objectives without acquiring all of the Order Land³¹. Bruton Knowles (BK) were instructed by the Council in July 2018, and by September of that year had made initial contact with all relevant and known landowners to start negotiation proceedings. Negotiations for the acquisition of freehold land began in December 2018 and negotiations for the acquisition of leasehold interests and any compensation for disturbance commenced in early January 2020. BK continued to negotiate with all freeholders and leaseholders with whom there were still outstanding issues following the announcement of lockdown by the Government on 23 March 2020 and also following the decision on 15 April to defer the Inquiry until later in the year³².
32. In respect of plot 1 (Donaldson Investments Ltd) BK made initial contact with the landowner on 24 September 2018 and the first meeting with the owner's representatives occurred on 28 January 2019. BK then corresponded twice with the owner's representatives before a detailed response was received on 18 September 2019. This was in turn responded to by BK on 4 October 2019. On 8 November the Council sent a letter to all landowners with an update as to the progress of the scheme. The official objection from Donaldson Investments Ltd was dated 11 December 2019. Following this a Council representative met with the landowner direct on 28 January and a follow up email was sent on the same day. A further meeting between the parties was held on 17 February.
33. On 24 February 2020 a meeting was held between BK and the landowners and following this on 27 March 2020 BK confirmed that the offered car parking spaces would be offered either freehold or long leasehold, and a revised plan was sent showing the arrangements along the property frontage. Since that date there have been a further sixteen instances of communication between the parties with matters remaining in the hands of the objector and his representatives since

²⁷ POE Macaulay-Lowe paragraph 4.5

²⁸ POE Macaulay-Lowe paragraph 4.10

²⁹ POE Macaulay-Lowe paragraph 4.12

³⁰ POE Macaulay-Lowe paragraph 4.13

³¹ POE Smith 5.1

³² POE Smith 5.5(i) – 5.5(ii)

28 October 2020. The Council have also provided a detailed plan showing the proposed location of parking spaces and how they will be allocated.

34. With respect to plots 6 and 8 (Jeremy Timms and Jeremy Timms trading as Hempsted Motor Centre Ltd), initial contact was again made on 24 September 2018. A Draft Heads of Terms agreement to provide replacement parking spaces was submitted on 20 December to the objector's representatives. On 21 January the objector changed his representatives and the agreement was sent to the new representatives. BK met with the landowner on 3 April 2019 and on 24 February 2020 and the Council met direct with the landowner on 28 January 2020. Since the meeting on 24 February 2020 there have been a further twenty one instances of communication between the parties. As of 1 November 2020 the matter remains with the claimant to respond to BK with an indicative settlement figure³³.

THE CASE FOR THE OBJECTORS

Jeremy Timms and Jeremy Timms trading as Hempsted Motor Company

The material points are:-

35. It is not clear how the compulsory purchase compensation would be funded nor whether the Council has sufficient funds for the scheme to proceed. There is a lack of a compelling case in the public interest. The Council state that the time savings will lead to an increase in productivity but productivity is not defined, and in any event, there is no reason why the public sector should pay for the benefits. If there is a benefit then it has to be demonstrated that the benefit outweighs the detriment to the business interests that will be directly affected.
36. There has been a lack of consultation by the Acquiring Authority. Whilst they have sought to negotiate, offers made have been incomplete and lacking in sufficient detail to allow him to make an informed decision. Repeated requests for clarification have gone unanswered³⁴.

Donaldson Investments Limited

The material points are:-

37. The current proposed alignment of the road widening scheme, in reducing the forecourt/parking for this plot would excessively inhibit the practical day to day ingress and egress of vehicles to the existing two front loading doors to the building on the plot. This calls into question the ongoing practical use and viability of the whole property and therefore reconsideration of the exact line of the road widening is necessary. Also, the offer includes relocation of the car parking spaces but the location and terms of those alternative spaces has not been identified, and from the information available they would be moved to an inferior location some distance from the property³⁵.

³³ All from the Schedule of progress with acquisition document (appendix 1 to POE Smith)

³⁴ Objection letter dated 11 December 2019

³⁵ Objection letter dated 11 December 2019

INSPECTOR'S CONCLUSIONS

38. Bearing in mind the submissions that I have reported, I have reached the following conclusions, references being given in square brackets ^[1] to earlier paragraphs where appropriate.
39. Government guidance on CPOs^[36] confirms that a compulsory purchase order should only be made where there is a compelling case in the public interest and the purposes for which the compulsory purchase order is being made sufficiently justify interfering with the Human Rights of those with an interest in the land affected.
40. Factors to be taken into account in determining whether there is a compelling case in the public interest include whether: all the land affected by the order is required; the necessary resources to acquire the land and implement the scheme for which the land is required are likely to be available within a reasonable timescale; the scheme is unlikely to be blocked by any impediments to implementation; and, whether efforts have been made to secure the required land rights and titles by negotiation. I will consider these factors before directly addressing the objections of Jeremy Timms and Donaldson Investments Ltd.
41. The proposed scheme would be the final link in the upgraded GSWB^[11]. This section of the GSWB was identified as a network pinch point in Gloucestershire's 2014 Strategic Economic Plan and its importance was identified in Gloucestershire's Strategic Economic Plan V 2.0. in 2018. The scheme is included within the current adopted Local Transport Plan (2015-2031) and a FBC assessment has been undertaken to optimise the design and ensure that the scheme will deliver best value for the public, local businesses and all other parties^[27]. Furthermore, the scheme has planning permission and the project is included in the Council's Capital Programme for 2020-2021^[28].
42. The proposed scheme would reduce traffic congestion by the addition of new lanes and designated filter lanes^[23]. This would reduce travel time at peak periods by up to ten minutes and produce a net Present Value Benefit of £64m to the local economy over a 60 year period with a Benefit Cost Ratio of 12, representing a very high value for money^[26]. There would also be an improvement to pedestrian and cycle facilities^[24]. In the broader sense the scheme would reduce economic disadvantage on the GSWB corridor and the key linkages to it between Cheltenham and the Forest of Dean; improve access between the west of Gloucester and the identified strategic employment growth site at Innsworth, north of Gloucester; maximise economic productivity and efficiency and improve access to skills, jobs, goods and services^[25].
43. Funding for the scheme has been secured with £2m already made available from the LEP and the remainder being funded from the Council's capital programme or any other successful external grant that the Council can access between now and the project completion^[29] (I was informed during the Inquiry that the Council have submitted an expression of interest for funding for the GSWB to the DfT's

^[36] Guidance on Compulsory purchase process and The Crichel Down Rules (Ministry of Housing, Communities and Local Government 2018)

Local Pinch point Fund). The procurement process is programmed to end in spring 2021 at which point a preferred contractor will be selected to ensure that construction can begin without delay^[30].

44. The evidence therefore points to the fact that the proposed scheme would be highly beneficial in a number of areas, that the funding is available and that the procurement process is programmed. Furthermore, I have been given no evidence to suggest that all the land affected by the order is not required to facilitate construction of the scheme. I will now turn to the individual objections as detailed above.
45. Jeremy Timms and Jeremy Timms trading as Hempsted Motor Company firstly mention both funding and whether or not there is a compelling case in the public interest^[35]. Their concerns were outlined in a letter of 11 December 2019 and no further evidence has been supplied by them to reinforce their objection. Funding has been dealt with previously and I will deal with the question of whether or not there is a compelling case in my overall conclusion.
46. This objector also refers to the Council's use of the phrase 'increase in productivity' in their justification for the scheme and questions this, as well as highlighting that productivity is not defined. The scheme would lead to a decrease in travelling time which, although not huge in individual terms, with up to 50,000 people a day being involved, would be replicated many times over. It can be inferred that the time spent not travelling would be spent on other, conceivably more productive things. It seems to me therefore that this issue is not one that should be an impediment to the progression of the scheme. The objector also questions whether or not the public sector should be paying for this^[35].
47. However, the scheme has received funding from the LEP and is contained within the current adopted Local Transport Plan (2015-2031). Furthermore, a FBC assessment has been undertaken to optimise the design and ensure that the scheme will deliver best value for the public, local businesses and all other parties^[27]. It has therefore progressed through a number of iterations and processes, none of which have questioned its efficacy.
48. Lastly this objector refers to a lack of consultation by the Council^[36]. However, the Council have produced a document detailing the communications that they have had with the objectors. This shows that they have been in contact with the objector numerous times between 24 September 2018, including several face to face meetings and that, as of 1 November, the matter remained with the objector to respond to the Council^[34]. I do not consider therefore that there is any substance to this objection.
49. The objection from Donaldson Investments Limited called into question the proposed alignment of the road and how this would negatively impact on the ingress and egress of vehicles to the business operating out of the building on plot 1, as well as the future parking arrangements for this plot^[37]. In answer to this the Council have re-aligned the proposed road so as to give more land to the frontage of the plot and also provided a detailed plan showing future parking arrangements^[33].

50. Taking into account the above, I conclude that a proportionate balance has been struck on the use of compulsory purchase powers between the various individual's rights and the public need for the proposed scheme.

Overall conclusion

51. Taking into account my above findings I conclude that there is a compelling case in the public interest for the CPO to be confirmed. I further conclude that the purposes for which the compulsory purchase order is being made sufficiently justify interfering with the Human Rights of those with an interest in the land affected.

RECOMMENDATION

52. I recommend that **The Gloucestershire County Council (Gloucester South West Bypass (Llanthony Road Section) Compulsory Purchase Order 2019** be modified in accordance with the schedule of modifications (Document 22) and the Order so modified be confirmed.

John Wilde

Inspector

APPENDIX 1 - APPEARANCES

FOR THE APPLICANT

Ms Celina Colquhoun of Counsel

Mr Rae Suemul

Mr Graham Ellingford

Mr Scott Macaulay-Lowe

APPENDIX 2 – DOCUMENTS

Inspector's Dossier from National Transport Casework Team

Core Documents

No	Document
1	The Order
2	Order Map
3	Cabinet Report
4	Minutes from GFirst LEP
5	Full Business Case
6	Gloucestershire's Strategic Economic Plan
7	Local Transport Plan 2015-2031 – Countywide Capital Highway Project Delivery Priorities
8	Planning Application
9	General Arrangement Plan
10	Planning Statement

11	Planning Officers Report
12	Planning decision Notice
13	Internal Memorandum of Understanding
14	Gloucestershire Local Growth Fund – Grant Funding Payment Request Evidence and Financial Monitoring

EVIDENCE ON BEHALF OF COUNCIL

15	Opening Submissions by Celina Colquhoun of Counsel
16	Witness Statement of Scott Macaulay-Lowe – Funding and Planning
17	Proof of Evidence of Robert Smith – Land Acquisition-Summary of Negotiations and Position of Remaining Objectors
17A	Appendix 1 to above, Schedule of progress with acquisition
18	Proof of Evidence of Graham Ellingford - Engineering
19	Witness Statement of Rae Suemul – Engineering and Scheme Description

EVIDENCE ON BEHALF OF OBJECTORS

20	Letter dated 11 December 2019 from ASH Chartered Surveyors on behalf of Donaldson Investments Ltd
21	Letter dated 11 December 2019 from CBRE on behalf of Jeremy Timms and Jeremy Timms trading as Hempsted Motor Company

DOCUMENTS HANDED IN DURING THE INQUIRY

22	Proposed Modifications
23	Updated Order Map
24	Plan showing comparison of proposed and approved general arrangement Spinnaker and Sunmeadow Junction
25	Plan showing amended land take to the frontage of plots 1, 5, 6 and 8
26	Plan showing new dimensions to frontage of plots 1, 5, 6 and 8
27	Plan showing proposed alternative parking arrangements

DOCUMENT SUBMITTED AFTER THE INQUIRY

28	Letter from ASH Chartered Surveyors on behalf of Donaldson Investments Ltd giving notice of withdrawal of objection
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