
Report to the Secretary of State for Transport

by Martin Whitehead LLB BSc(Hons) CEng MICE

an Inspector appointed by the Secretary of State for Transport

Date: 23 August 2021

HIGHWAYS ACT 1980

ACQUISITION OF LAND ACT 1981

WEST SUSSEX COUNTY COUNCIL

(A284 LYMINSTER BYPASS (NORTH) CLASSIFIED ROAD)

SIDE ROADS ORDER 2020

&

WEST SUSSEX COUNTY COUNCIL

(A284 LYMINSTER BYPASS (NORTH))

COMPULSORY PURCHASE ORDER 2020

Date of Inquiry: 10 August 2021

Ref: NATTRAN/SE/HAO/229

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CASE DETAILS

- The Side Roads Order (SRO) is made under sections 14 and 125 of the Highways Act 1980 by West Sussex County Council and is dated 2 September 2020.
 - The Compulsory Purchase Order (CPO) is made under sections 239, 240, 246 and 250 of the Highways Act 1980 and the Acquisition of Land Act 1981 by West Sussex County Council and is dated 2 September 2020.
 - West Sussex County Council (the 'Order Making Authority') submitted the Orders for confirmation to the Secretary of State for Transport.
 - If confirmed, the SRO would authorise the Order Making Authority to stop-up highways and stop-up and provide new private means of access to premises.
 - If confirmed, the CPO would authorise the Order Making Authority to compulsorily purchase land and the rights over land for the purposes of the construction of new highways; the provision of new means of access to premises and land; the diversion of watercourses and the carrying out of other works on watercourses; use by the authority in connection with the construction of highways, the provision of new means of access, the diversion of watercourses and the carrying out of other works on watercourses; and the mitigation of any adverse effects which the existence or use of the highways proposed to be constructed will have on their surroundings.
 - When the Inquiry opened there was one remaining statutory objection to the CPO.
-

Summary of Recommendations: I recommend that the Orders be modified and confirmed

1 PREAMBLE***Procedural Matters***

- 1.1 I was appointed by the Secretary of State to conduct Public Local Inquiries (the Inquiry) in accordance with section 13(2) of the Acquisition of Land Act 1981 and paragraph 7 of Schedule 1 of the Highways Act 1980 in connection with the above-mentioned Orders.
- 1.2 I held a Pre-Inquiry Meeting (PIM) virtually on Wednesday 2 June 2021 and issued a PIM Note¹ for distribution to all parties. This set out the administrative and practical arrangements for the Inquiry.
- 1.3 I opened the Inquiry virtually at 1000 hours on 10 August 2021 to hear evidence concerning the submission made by West Sussex County Council (WSCC), as the 'Order Making Authority' for confirmation of the above-mentioned Orders. The Inquiry sat for 2 days, closing on 11 August. I carried out unaccompanied site inspections of the land and surrounding area on Friday 13 August and Saturday 14 August.

¹ Document No ID/5

- 1.4 The Order Making Authority confirmed at the Inquiry that it had complied with all necessary statutory formalities, and it has provided evidence to show that the required notification of the Inquiry² has been carried out. This compliance has not been disputed.

Purpose of the Orders

- 1.5 The Order land is required for the purpose of facilitating the construction of the A284 Lyminster Bypass (North) (the Scheme). The Scheme would involve³:
- (a) The construction of a new 7.3m wide single carriageway for about 1.1km between a new roundabout to the south and its connection to the existing A284 in the north, including a new 225m long viaduct over Black Ditch floodplain.
 - (b) The provision of a 3m wide shared cycleway/footway along the west side of the carriageway from the north to a signalised Pegasus crossing, linked to Bridleway (BW) 2163 between Lyminster and Poling, and then on the east side to link to the south and into Littlehampton; and a 2.5m wide grassed verge on the opposite side, apart from along the length of the viaduct.
 - (c) The stopping up of two private accesses to be replaced by one new means of access; the stopping up of one private vehicular access along BW 2163 to be replaced by two new means of accesses to the east and west; the stopping up of 79m of BW 2163; and the creation of a new means of access along a private track at the end of Woodcote Lane for a distance of 213m, and the installation of 3 field gates.
 - (d) Drainage works in connection with the construction of the highway.
 - (e) The mitigation of any adverse effects in terms of the installation and access for maintenance of acoustic fencing, the provision of landscaping alongside the highway and the provision of environmental mitigation for ecological and noise purposes.

Objections

- 1.6 There was one remaining objection to the CPO outstanding at the opening of the Inquiry: T&L Crawley No 2 LLP (T&L Crawley) ⁴. By the close of the Inquiry, no notification had been received from this objector that it had withdrawn its objection. The main outstanding ground for objection to the CPO was that land to be acquired temporarily would have an adverse effect on the use of the land for residential development.

² Document No ID/4

³ Documents Nos WSCC/SRO 2 paragraph 5.3 and WSCC/POE/7 paragraphs 3.3, 3.5 and 4.1

⁴ Document ID/8: E-mail, dated 9 August 2021, withdrawing objections from HCC 2011 Ltd (SRO & CPO), Mrs R Andrew (SRO & CPO) and Ricotte Investments Ltd (SRO & CPO), leaving the remaining objector as T&L Crawley No 2 LLP (CPO)

Guidance

- 1.7 The relevant guidance in relation to the CPO is Guidance on Compulsory purchase process and The Crichel Down Rules, July 2019 (CPO Guidance). The Government published on 21 July 2021 an update to its National Planning Policy Framework (NPPF) which replaces the previous version of the NPPF published in February 2019. It sets out the Government's latest planning policies for England and how they are expected to be applied.

Scope of the Report

- 1.8 This report contains a brief description of the site and surroundings, the gist of the cases presented together with my conclusions and recommendations. Lists of appearances and Inquiry documents are attached, including proofs of evidence, as well as a schedule of recommended modifications.

2 DESCRIPTION OF THE ORDER LAND AND THE SCHEME⁵

- 2.1 The Order land is shown on the combined planning information drawings A284LY-CAP-GEN-00-SK-C-0267⁶ and A284LY-CAP-HGN-00-DR-C-0190 to 0193.1⁷. The land is located to the east of Lyminster village. To the south, the existing A284 joins the A259 at 'Wick Roundabout' where the A259 provides a route towards Bognor Regis to the west and the A284 continues south into Littlehampton centre. To the north is the existing A284 and its junction with the A27 at Crossbush, which links to Arundel to the west. The South Downs National Park lies approximately 1km from the northern end of the Scheme to the north of the A27.
- 2.2 The Order land includes all land required temporarily for site compounds, access and working space and that required permanently for the Scheme. It comprises of predominantly arable and grazing land with a footprint of approximately 9.44ha. The topography across the site is generally level with gentle slopes falling to the low points of two watercourses. The watercourses are known as Brookfield stream, which traverses the land to the north, and Black Ditch, which traverses the land to the south. There is a relatively steep rise in level to the south at the limit of the floodplain.
- 2.3 The Scheme would commence from a point about 600m south of the A27 Crossbush junction. It would comprise an improvement of the existing A284 through realignment and construction of a new highway, consisting of a 7.3m wide carriageway with 1m wide hard strips either side, 3m wide shared cycleway/footway and verges.
- 2.4 At its southern end, the Scheme would connect to the A284 Lyminster Bypass (South), which I observed at my site visit has been constructed to bridge over the railway and Mill Lane. This length of highway forms a new roundabout junction with the A259 to the east of Wick Roundabout, which links up with the recently constructed Fitzalan Road heading south. It would provide access via a new roundabout junction at its northern end to the mixed-use North Littlehampton development, which I observed is under

⁵ Documents Nos WSCC/SOC Section 5 and WSCC/POE/7 Section 3 and observations on site

⁶ Document No WSCC/POE/11 Appendix T

⁷ Document No WSCC/POE/11 Appendix U

construction. An eastern spur from the roundabout would link up with Mill Lane via Richardson Way.

- 2.5 At the southern end, the Scheme would join a northern spur from the new roundabout which would be constructed as part of the A284 Lyminster Bypass (South). The highway would be built at approximately the existing ground level until it reaches the southern limit of the Black Ditch floodplain. From this point, the highway would be constructed on a 225m long viaduct which would span the Black Ditch floodplain. At the northern extent of the floodplain, the highway would continue on an embankment. The highway would be above the existing ground level until reaching the location of a Pegasus crossing to allow existing BW 2163 to cross it where levels would approximately match the existing. From the crossing heading north, the highway would be in a slight cutting and then an embankment where it would form a new junction with the existing A284 and cross Brookfield Stream.

3 THE CASE FOR THE ORDER MAKING AUTHORITY (WEST SUSSEX COUNTY COUNCIL)

The material points⁸ were:

Issues with the existing A284

- 3.1 The A284 is an important north-south link, which provides a principal access to Littlehampton, connects to the A259 providing access to Rustington, East Preston and Climping, and to the north connects to the national Strategic Road Network at the A27 for longer-distance traffic. Through Lyminster, it is not fit for this purpose and this is recognised in the Arun District Local Plan 2011-31 (2018) (Local Plan). The Local Plan notes that '*The District is lacking in strong north-south links between the main towns of Littlehampton and Bognor Regis and the A27⁹*', and policies T SP1(c) and T SP3 safeguard the Lyminster Bypass route as a solution to this issue at Littlehampton.
- 3.2 The problems with the A284 in Lyminster include the geometry of the road, which is substandard with four 90-degree bends in a short stretch of road. This creates safety issues and impacts on the attractiveness of the route and its ability to cope with high volumes of traffic¹⁰. It has an average daily weekday two-way flow of traffic of over 13,000 vehicles observed in 2018 (including 11.7% LGVs and 5.2% HGVs). The flows are forecast to increase, with the Lyminster Bypass Forecasting Report 2017 indicating around 1,023 passenger car units per hour (PCU/hr) in the AM peak hour and 1,169 in the PM peak hour in 2019, rising to 1,405 in the AM peak hour and 1,336 in the PM peak hour in 2034¹¹. These flows are above the capacity of a road with average lane widths of 3.5m in the centre of Lyminster, reducing to 3.15m¹².

⁸ Document No ID/16

⁹ Document No WSCC/SOC Supporting Document 16 paragraph 15.1.2

¹⁰ Oral evidence of Andrew Burrows at the Inquiry

¹¹ Document No WSCC/POE/3 pages 16-17 Tables 4 and 5

¹² Document No WSCC/POE/3 paragraph 4.2.6 and oral evidence of Guy Parfect at the Inquiry.

- 3.3 The traffic affects the local environment in that it goes through the Lyminster Conservation Area and directly past listed buildings and street facing residential properties. It significantly harms the attractiveness of Lyminster for walking and cycling. The A284/A259 Wick Roundabout is identified in the Local Plan as a 'First Priority Location' indicating high levels of exposure to noise¹³.
- 3.4 The Wick level crossing regularly has eight or more train movements per hour giving rise to frequent barrier closures of unpredictable duration (for example if two movements overlap to a greater or lesser extent), which leads to delays and unreliable journey times¹⁴. The Transport Assessment (TA) estimates closures amount to approximately 30% of the AM and PM peak hours, which it describes as a '*significant capacity constraint*'¹⁵. Journey time survey data from a variety of routes across the wider Littlehampton area shows the A284 to consistently have significantly greater journey time variability in both the AM and PM peaks than other routes, which is indicative of delays and makes it unattractive¹⁶.
- 3.5 There have been a high number of accidents recorded on the short stretch of the A284 that goes through Lyminster. The TA explains that '*Analysis of collisions during the study period highlights that there have been a number of collisions at tight bends in Lyminster, particularly in bad weather or at night*'¹⁷.

Benefits of the Lyminster Bypass

- 3.6 The substantial benefits that the Scheme would bring include:
- i. It will be built to modern standards of highway design compliant with the Department for Transport (DfT) Design Manual for Roads and Bridges (DMRB,) with only limited departures, which have been justified and approved, and which are unavoidable where the new bypass ties into the existing road¹⁸, to provide a safe route and address the safety issues of the large volumes of traffic using the current A284 through Lyminster.
 - ii. It will reduce the volume of traffic going through the village, with the traffic forecast to be 318 PCU/hr in the AM peak and 586 PCU/hr in the PM peak in 2034, down from 1,300 to 1,400 PCU/hr without the Scheme.
 - iii. The resulting reduction in traffic will make the village and Conservation Area more attractive for walking and cycling, and the provision of a footpath/cycleway along the bypass will make it attractive for walking and cycling.

¹³ Document No WSCC/SOC Supporting Document 16 paragraph 21.2.5

¹⁴ Oral evidence of Guy Parfect at the Inquiry

¹⁵ Document No WSCC/POE/11 Appendix I paragraph 3.5.9

¹⁶ Document No WSCC/SOC pages 11-12 including Table 4-1

¹⁷ Document No WSCC/POE/11 Appendix I paragraph 3.9.21, and oral evidence of Guy Parfect at the Inquiry

¹⁸ Document No WSCC/POE/7 paragraphs 3.18 to 22 and 5.11, and oral evidence of Andrew Burrows at the Inquiry

- iv. The modelling shows that journey times will generally reduce between 20 and 30% because of the Scheme in 2034 compared to the 2034 Do Minimum baseline¹⁹.
 - v. It is necessary to take the forecast increases in traffic on the A284 that would result from the opening of the proposed A27 Arundel Bypass²⁰, which Highways England has anticipated as starting construction work in 2023/2024, subject to the submission of an application for a development consent order²¹.
- 3.7 The wider benefits of the Scheme follow from it being an important part of the infrastructure needed to facilitate and support economic and housing growth in the area. This includes new development that has been granted planning permission (ref LU/47/11) at North Littlehampton, consisting of 1,260 dwellings and 13,000sqm of employment floorspace and associated development. The Scheme would provide a more appropriate north-south access to the development, rather than using the Mill Lane route and the existing A284. Policy EMP SP3 of the Local Plan also allocates 2ha of additional employment land at this location (site 6: North Littlehampton)²².
- 3.8 The Scheme would assist in addressing issues in Littlehampton regarding above average levels of deprivation, with concentrated pockets which fall in the worst 10% in England²³ in terms of income deprivation, by providing access to jobs and services and encouraging investment. The West Sussex Transport Plan 2011-2026 (WSTP) observes that *'The economic performance of Coastal West Sussex is below the rest of the County and is of most concern in Arun and Adur'*, and that there is *'an infrastructure deficit which causes poor connectivity within Coastal West Sussex, and to the wider region, which inhibits economic growth'*²⁴.
- 3.9 The Scheme would link into the rest of the Lyminster Bypass, i.e. the Lyminster Bypass (South) which is being constructed as part of the Persimmon Homes scheme, and the Fitzalan Link Road, the first phase of which has already been built. It would also tie into the A259 corridor improvements, which provide east-west enhancements to complement the north-south ones that would be provided by the Lyminster Bypass. Without the Lyminster Bypass (North) there would be a large hole in this comprehensive and interlinked set of improvements to the local highway infrastructure.

Policy Support for the Lyminster Bypass

- 3.10 The WSTP notes that the A284 is *'an important link road'* but identifies that *'The Wick level crossing causes delays for traffic in both directions, which*

¹⁹ Document No WSCC/POE/3 page 26 Table 7

²⁰ Document No WSCC/POE/3 paragraph 5.10.5: *'Without the Lyminster scheme in place the environmental conditions in Lyminster and Wick could become intolerable along with the adverse impacts to the safety of cyclists and pedestrians and of the Lyminster Road level crossing, from increased flows from the A27 of this scale'*.

²¹ Document No WSCC/POE/11 Appendix O summary document page 11: the application is expected to be submitted to the Planning Inspectorate in Q4 2021/Q1 2022

²² Document No WSCC/POE/3 paragraphs 3.4.7 to 3.4.8

²³ Document No WSCC/SOC paragraph 4.52 and Supporting Document 16 paragraph 3.23

²⁴ Document No WSCC/SOC Supporting Document 20 paragraph 1.3.1 page 22

can affect the operation of the junction with the A259²⁵. The WSTP's aims include 'Generating opportunities through new development to secure the delivery of the Fitzalan Link Road Extension and Lyminster Bypass to improve safety, accessibility and contribute to regeneration in Littlehampton and Bognor Regis'.

- 3.11 The Local Plan safeguards the bypass and supports the Scheme, noting that *'The proposed Lyminster Bypass will connect to the committed southern section which will run between Toddington Nurseries and the A259 and the Fitzalan Link. The bypass will improve north-south access from the A27 to Littlehampton by reducing the delays associated with the existing A284 Lyminster Road and the Wick level crossing. The scheme is expected to make the A284 Lyminster Road quieter and encourage walking and cycling on the route.'*²⁶
- 3.12 The Coast to Capital Local Enterprise Partnership's (LEP's) Strategic Economic Plan 2014 recognises the economic, social and environmental benefits of the Scheme²⁷, and is providing £3 million of funding.
- 3.13 The Littlehampton Neighbourhood Plan 2014 *'supports the long-term commitment of the local highway authority to delivering a bypass for the village of Lyminster'*²⁸.
- 3.14 The Scheme is supported by national policy in the NPPF in that it would facilitate housing and economic growth. By tying into the North Littlehampton development and wider growth plans, it would respond to the new focus in the July 2021 version of the NPPF given in paragraph 11a which states that planning should *'align growth and infrastructure'*.

The Transport Business Case

- 3.15 The Outline Transport Business Case (TBC), the latest version of which is dated January 2021²⁹, brings together and quantifies many of the benefits of the Scheme. The DfT has sufficient confidence in the merits of the Scheme to award it grant funding of £11.792 million³⁰. The Scheme has been entered in the Major Road Network programme accordingly. A final business case is required in due course, but the fact that the DfT letter expressly records that Ministers have agreed this significant funding weighs heavily in favour of a finding that a compelling case in the public interest exists for the Scheme³¹. The full business case is due to be submitted by the end of 2021 with an updated Benefit Cost Ratio (BCR) that has been estimated to still be high, indicating that there is no reason to think that it would affect scheme funding³².

²⁵ Document No WSCC/SOC Supporting Document 20 paragraph 1.4.1 page 29

²⁶ Document No WSCC/SOC Supporting Document 16 paragraph 15.3.4 page 180

²⁷ Document No WSCC/SOC Supporting Document 24 Annex pages 126 to 127

²⁸ Document No WSCC/SOC Supporting Document 47 paragraph 4.7.5 and Policy 19

²⁹ Document No WSCC/POE/14

³⁰ Document No WSCC/POE/11 Appendix S: DfT's letter of 7 June 2021

³¹ Oral evidence of Mark Martin at the Inquiry: *'it recognises the strategic importance of the Scheme'*

³² Oral evidence of Guy Parflect at the Inquiry

- 3.16 The Strategic Case is based on the support that the Scheme would provide for the growth of one of the underperforming areas of the West Sussex economy. It would support the North Littlehampton development and thus contribute directly to the delivery of 1,260 new homes and 700 new jobs, provide vehicles with a shorter and less congested route with reduced journey times, improve local environmental quality and road safety, while providing good value for money.
- 3.17 The Economic Case is made out because of the Scheme's high value for money. The January 2021 TBC forecasts benefits worth £53.177 million in its core analysis. As against the updated scheme cost of £27.334 million, that results in a BCR of 3.0 for the core analysis and of 4.8 when off-peak and weekend benefits are included³³, the Scheme is in the 'high' or 'very high' value for money category on the DfT's scale³⁴. The DfT are primarily focused on the core analysis but also will consider the additional off-peak and weekend benefits³⁵.
- 3.18 The Financial Case is made out because the Scheme is fully funded. Of the total scheme cost of £27.334 million³⁶, WSCC is funding £20.573 million; the Coast to Capital LEP is funding £3 million; and the remainder of £3.761 million comes from section 106 contributions, with capital funding being allocated in advance of section 106 receipts in the short term until all section 106 monies have been received. The DfT funding will take the place of part of the WSCC funding. Accordingly, the Scheme does not depend on the DfT funding³⁷. While the impact of delay would be inflationary, this risk has been built into the budget³⁸.
- 3.19 The Commercial Case, which concerns procurement, and the Management Case, which concerns management procedures to be adopted, are also satisfied for the reasons set out in the Outline TBC³⁹.

Consultation, public support and approvals

- 3.20 The Scheme has been consulted upon, including direct consultation on the Scheme in 2014, which revealed significant support for the Scheme, with 61% of respondents in favour and 30% against⁴⁰. Concerns were raised regarding the environmental impacts of the Scheme, which have been addressed through the planning application process and the Scheme has been found to be acceptable in planning terms. There has also been consultation on the Scheme through consultation and examination of the Local Plan, in which the Scheme is safeguarded, and through publicity and consultation in 2019 on the planning application. Equality impacts and

³³ Document No WSCC/SUPPOE/12 paragraph 3.10

³⁴ Document No WSCC/POE/14 page 31 Table 4-12

³⁵ Oral evidence of Mark Martin at the Inquiry

³⁶ Document No WSCC/POE/5 Section 11

³⁷ Document No WSCC/POE/11 Appendix R: The statement from Katherine Eberhart, WSCC's Director of Finance & Support Services, confirms that the total £27.334 million required is available and budgeted for

³⁸ Oral response by Mark Martin to a question by the Inspector at the Inquiry

³⁹ Document No WSCC/POE/14 pages 5 to 6 paragraphs 1.6 to 1.7

⁴⁰ Document No WSCC/POE/5 Section 9

WSCC's duties under the Equality Act 2010 have been considered, including in a report delegating authority to submit a full planning application to the Director of Highways and Transport in July 2018⁴¹. The Scheme has been through the required democratic process and received the necessary approvals from WSCC members⁴².

Need and justification for CPO and SRO

- 3.21 The need and justification for compulsory purchase and the SRO is a combination of the pressing need for the Scheme itself and the need for compulsory purchase as the only feasible way to acquire all the lands and rights necessary. In light of the number of landowners from whom land or rights are required (34 plots, a number of which have multiple interests), the need to assemble all the land in a timely and coordinated way without being held to ransom, and the need to have certainty about land acquisition, compulsory purchase is required. Timely acquisition of the land is important to ensure that funding is available when required⁴³.

- 3.22 The requirement in the CPO Guidance to show a compelling case in the public interest is made out by the need and benefits given. There is also compliance with the other aspects of this Guidance, which include the following.

*The purposes for which the Order is made justify interfering with the human rights of those with an interest in the land affected*⁴⁴

- 3.23 Article 1 of the First Protocol relates to the peaceful enjoyment of possessions, and states that: '*...no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law...*' Whilst occupiers and owners in the Order land may be deprived of parts of their property if the CPO is confirmed, this would only be done in accordance with the statutory provisions of the Highways Act 1980 and Acquisition of Land Act 1981, which enable the acquisition of the land and interests, and compensation will be payable under the Land Compensation Act 1973.
- 3.24 In relation to T&L Crawley's objection on the grounds of an interference with its human rights, in the context of Article 1, regard must be had to the fair balance that has to be struck between the competing interests of the individual and the community as a whole. Both public and private interests have been taken into account in the exercise of WSCC's powers and duties. The compelling case in the public interest is well-evidenced, as set out above, and the purposes for which the CPO is made clearly justify the limited and temporary interference with T&L Crawley's rights. WSCC has sought to minimise the amount of land being acquired from third parties and will only exercise its powers under the CPO if negotiations with them are not successful or cannot be achieved within the necessary timescales.

⁴¹ Document No WSCC/POE/5 Section 13

⁴² Document No WSCC/POE/5 paragraph 5.4

⁴³ Document No WSCC/POE/1 paragraph 10.4: '*it is unlikely that the Scheme could be developed to achieve the Council's objectives without the availability of compulsory purchase powers. In order to implement the Scheme the Council needs certainty that land and interests can be acquired simultaneously*'

⁴⁴ Document No WSCC/POE/1 Section 9

The Acquiring Authority has a clear idea of how it intends to use the land which it is proposing to acquire

- 3.25 WSCC has a clear idea of how it will use the land, given that the Scheme is worked up in significant detail and has been granted planning permission. The Scheme requires all the land and rights which are the subject of the CPO⁴⁵. A high-level timetable for delivery of the Scheme has been produced, which shows completion by October 2023⁴⁶.

The Acquiring Authority can show that all the necessary resources, including funding for both acquiring the land and implementing the scheme, are likely to be available to achieve that end within a reasonable time-scale

- 3.26 The Scheme is fully funded.

The Scheme is unlikely to be blocked by any physical or legal impediments to implementation, including the need for planning permission

- 3.27 The Scheme is free from impediments. It has planning permission, with application reference WSCC/049/18/LY being granted permission on the 9 May 2019⁴⁷, and conditions are already in the process of being discharged. It is safeguarded in the 2019 Local Plan. Such further permits, licences or orders as are required have been considered and no issues are anticipated in obtaining them in a timely manner⁴⁸.

Genuine and meaningful negotiations have taken place with landowners

- 3.28 Such negotiations with landowners have been diligently undertaken by WSCC⁴⁹, and it is evidence of WSCC's diligent and thorough approach in this respect that all remaining objections have been withdrawn with only one exception.

The SRO

- 3.29 The SRO complies with the tests in sections 14(6) and 125(3) (read with section 129) of the Highways Act 1980 Act. Regarding the stopping up of BW 2163 where it crosses the new bypass, the Pegasus crossing clearly provides 'another reasonably convenient route' in accordance with section 14⁵⁰. In terms of section 125, the following 3 private means of access are being stopped up:

- i. The vehicular private right of way over BW 2163 is being replaced by a vehicular crossing alongside the Pegasus crossing, which is '*another reasonably convenient means of access*' in compliance with section 125(3)(b).
- ii. Private means of access B, at the southern end of Plot 2a, is being stopped up and replaced with an access off the new bypass which is

⁴⁵ Document No WSCC/POE/11 Appendix U: Detailed combined planning drawings indicate the land and rights required

⁴⁶ Document No WSCC/POE/5 page 9

⁴⁷ Document No WSCC/SOC Supporting Document 34

⁴⁸ Document No WSCC/POE/5 Section 12

⁴⁹ Document No WSCC/POE/1 Section 7

⁵⁰ Oral evidence of Andrew Burrows at the Inquiry

significantly superior given its wider bellmouth and set back gate, so avoiding vehicles having to stop on the highway⁵¹.

- iii. Private means of access A, at the northern end of Plot 2a adjacent to Brookfield Stream, is being stopped up and not directly replaced, because safety fencing needs to be provided in this location in light of the 2m drop in the stream, and any replacement access in near proximity would involve significant land take from the landscaped and wooded garden of Brookfield⁵². There is compliance with section 125 because other reasonably convenient means of access to Brookfield are available, including at the main entrance about 200m north along the A284 (which is a safer access than the overgrown gate adjacent to Brookfield Stream), at the north of the property on Caldecote Lane, and via the new access to the south (as it is possible to cross over the stream in the fields).

Objection by T&L Crawley No 2 LLP (T&L Crawley)

- 3.30 T&L Crawley has an interest in Plot 10a and Plot 10b, which adjoin the proposed route of the bypass. Plots 10a and 10b are needed for temporary use for construction and working space. T&L Crawley had purchased the land against the background of the Scheme which was incompatible with its short-term aspirations.

T&L Crawley's Proposed Development

- 3.31 T&L Crawley purchased the land in May 2019⁵³ when the Scheme proposals for Plot 10b were public knowledge. The prejudice to T&L Crawley from those proposals is accordingly limited. T&L Crawley does not have planning permission for its proposals for residential development and the evidence is that planning permission is unlikely to be obtained. It is unclear whether and in what timescale T&L Crawley is pursuing its proposals. The interference with T&L Crawley's interest is offset to a significant extent by the increased attractiveness in the market which the bypass gives to the allocation for commercial development on T&L Crawley's land.
- 3.32 Planning permission for the Scheme was granted on 9 May 2019. Even if the purchase pre-dated that, T&L Crawley purchased the land when the Scheme was already well advanced, with the Planning Committee having resolved in favour of granting the Scheme planning permission on 26 March 2019. Plots 10a and 10b were included within the red line of the planning application and clearly shown as part of the Scheme in the application plans, including an annotation of Plot 10b as 'temporary working area' and 'site compound'⁵⁴. Plots 10a and 10b are subject to planning permission for the Scheme and the 2013 planning permission on the land is only an outline one, whereas there is full planning permission for the Scheme.

⁵¹ Document No WSCC/POE/7 paragraphs 3.17 and 5.6 to 5.8 and figures 3.1 and 3.2

⁵² Document No WSCC/POE/7 paragraphs 3.27 and 5.40 and figures 3.3 and 3.4

⁵³ Documents OB/1 and OB/4: T&L Crawley's covenant with Persimmon is dated 15 May 2019, which indicates that the purchase took place on this date

⁵⁴ Document No WSCC/POE/11 Appendix I: Transport Assessment Appendix B Dwg A284LY-CAP-HGN-DR-C-0146 rev P03 - site plan sheet 1 of 2, and Appendix U Dwg A284LY-CAP-HGN-00-DR-C-0190 rev P02 - combined planning information sheet 1 of 4 as approved plans in condition 3 of the planning permission dated 9 May 2019 (Document No WSCC/SOC Supporting Document 33)

- 3.33 T&L Crawley is proposing speculative development on Plot 10b, which is allocated and has outline planning permission for B1 use, not residential use. Arun District Council has given clear pre-application advice that T&L Crawley's proposal would be unacceptable in principle⁵⁵. T&L Crawley has been marketing the land but does not have a development scheme⁵⁶. Also, it is unclear whether the proposal for 154 units is being pursued any longer⁵⁷.
- 3.34 The proposed CPO is only for temporary use of T&L Crawley's land. The programme indicates that the bypass is due to be completed by October 2023⁵⁸. Given the necessary time to obtain and implement any planning permission, it is unclear whether T&L Crawley could get on site significantly in advance of that date. Planning permission is typically subject to a condition that it is implemented in 3 years⁵⁹, such that implementation may not occur until after the bypass is completed. In any event, the period of use would be relatively limited and would appear unlikely to be capable of significantly interfering with medium or long-term proposals for the site.
- 3.35 The Scheme would enhance the attractiveness in the market of the allocation for commercial development on T&L Crawley's land, including by better road frontage⁶⁰. The temporary interference with T&L Crawley's interest is offset to a significant degree by this enhancement. T&L Crawley has offered support for the Scheme⁶¹. It purchased the land, presumably in part because of the enhancement that the bypass would provide but is objecting to the use of the land for the construction of the bypass.

T&L Crawley's Alternative Proposals to use of Plot 10b⁶²

- 3.36 It is unacceptable to amend the construction proposals to avoid use of Plot 10b as a construction compound. All alternative compound locations, including those suggested by T&L Crawley, to avoid using Plot 10b have been fully considered. However, engineering constraints dictate that these options are not feasible and not acceptable for health and safety reasons. Given the project constraints, design requirements, and health and safety requirements, the best and only viable location for the site compound area is to utilise Plot 10b and Plot 9b and form a temporary access road from it, running northwards alongside the western side of the proposed viaduct footprint down to and along the floodplain.
- 3.37 Using Plot 10b and part of Plot 9b would enable a safe and large enough area to manoeuvre and turn vehicles fully within the confines of the site so they can use the proposed access road safely. Use of Plot 10b would also

⁵⁵ Document No WSCC/SOC Supporting Document 105

⁵⁶ Oral evidence of Nigel Godden at the Inquiry

⁵⁷ Document No WSCC/POE/11 Appendix G-92 E-mail, 6 April 2021

⁵⁸ Document No WSCC/POE/5 paragraph 5.10

⁵⁹ Document No WSCC/POE/11 Appendix G-92 E-mail, 6 April 2021

⁶⁰ Oral evidence of Nigel Godden at the Inquiry

⁶¹ Document No WSCC/SOC Supporting Document 87- letter of 8 July 2019: 'T&L Crawley No 2 LLP wishes to formally record its fullest support for the construction of the A284 Lyminster Bypass which it considers to be a much-needed infrastructure initiative of local and regional significance,...'

⁶² Document Nos WSCC/POE/7 paragraph 5.66 and WSCC/POE/9 Section 5

provide sufficient safe working space alongside Plot 9b during the latter stages of the works to construct the new road's earthworks' embankment.

- 3.38 T&L Crawley's alternative suggestion to move the compound to land on the east side of the road is not acceptable because:
- i. It would be incompatible with the drainage features on the east side of the road, including attenuation crates, from which water would be piped to a pond⁶³, which need to be constructed early to deal with water run-off from the road whilst under construction⁶⁴.
 - ii. Plot 10a is not big enough for the compound and therefore the compound would have to go outside the current red line, for which there is no planning permission and no evidence as to whether it can be obtained.
 - iii. The compound needs to be on the same side of the road as the main construction area for the bypass, including the haul road for crawler crane lifting and movements, and the 30m x 30m large crane pad further north in the floodplain, for health and safety and logistical reasons⁶⁵.
- 3.39 An alternative suggestion to move the compound north into the floodplain is not acceptable because:
- i. Land in the floodplain is not suitable for a compound⁶⁶, as a vehicle would risk sinking into it unless the ground was built up and a compound would require ground raising over a much wider area than proposed on Drawing No SK-0001⁶⁷.
 - ii. The Environment Agency (EA) has advised against having a compound in the floodplain⁶⁸, due to issues of displacing flood storage capacity.
 - iii. There would be ecology issues with moving the compound into the floodplain, including increased risk of run-off and impact on protected species such as the water vole and fish, need for further ecological surveys over the compound area, and the potential need for a further licence covering water vole displacement⁶⁹.
- 3.40 These design matters and their implications in terms of flood risk and ecology were properly considered through the planning application. If any party wanted to take issue with them or propose alternatives, that was the appropriate point to do so. The fact that T&L Crawley purchased the land later cannot entitle them to require WSCC to re-design a scheme which is

⁶³ Document No WSCC/POE/11 Appendix U: combined planning information drawing sheet 1 of 4

⁶⁴ Oral evidence of Andrew Burrows at the Inquiry

⁶⁵ Oral evidence of Tony Symonds at the Inquiry, Document No WSCC/SOC Supporting Document 103- Drawing SK-0001 rev P01, and Document No WSCC/POE/9 paragraph 4.9.1

⁶⁶ Oral evidence of Andrew Burrows at the Inquiry

⁶⁷ Document No WSCC/POE/11 Appendix W: Drawing SK-0003 rev P01

⁶⁸ Document No WSCC/POE/11 Appendix W: E-mails and oral evidence of Tony Symonds at the Inquiry

⁶⁹ Document No WSCC/POE/11 Appendix X-2: E-mail from Verity Dickie, Principal Ecologist, 18 February 2021

being promoted in the public interest. A detailed explanation was provided to T&L Crawley on the above issues in correspondence dated 14 December 2020 in respect of the proposal to move the compound to the east, and then in February 2021 in respect of the proposal to move the compound to the floodplain, and T&L Crawley did not come back with any rebuttal.

Deed of Covenant

- 3.41 With regard to the covenant with Persimmon Homes, which obliges Persimmon to undertake works to T&L Crawley's land to ensure it is capable of development by 31 December 2021, WSCC has made clear that it will agree to reinstate the land to the condition in which it received it, and, in any event, any such impact can be compensated for.

Negotiations

- 3.42 T&L Crawley's suggestion that WSCC has not adequately engaged or negotiated with T&L Crawley is unfounded. T&L Crawley's letters of objection also present a significantly incomplete and misleading picture in this respect. WSCC has been in very frequent communication with T&L Crawley since shortly after T&L Crawley's acquisition of its land interest, as documented in the evidence⁷⁰. WSCC provided a draft legal agreement on 2 July 2021⁷¹ and invited T&L Crawley to comment on it. A meeting was held on 8 July 2021⁷², which was followed up by letters dated 23 and 28 July⁷³ seeking comments on the draft agreement. T&L Crawley failed to provide comments but sent a new 'Heads of Terms' document directly to the Programme Officer on 9 August 2021. This had not previously been sent to WSCC, contrary to T&L Crawley's suggestion in its covering e-mail, and WSCC was not copied into that e-mail.
- 3.43 WSCC will continue to seek to reach agreement with T&L Crawley to avoid the exercise of compulsory purchase powers, but it is essential that the CPO is confirmed, particularly given that T&L Crawley has repeatedly proposed certain matters which are fundamental stumbling blocks to agreement, and which may not be overcome. These include seeking a time-limited period of use, which is unacceptable due to uncertain timescales for the issue of the Secretary of State decision, the timing of ecological works and other broader uncertainties; seeking a bond to secure the performance of WSCC's obligations, which is unnecessary given that WSCC is a public body whose finances can be relied on accordingly, and there is no reason why the usual contractual indemnities should not be sufficient⁷⁴; and seeking to enable Persimmon Homes to be able to undertake any of its existing obligations under the deed of covenant, which would be incompatible with the use that WSCC will need to make of the land⁷⁵.

⁷⁰ Document Nos WSCC/POE/11 Appendix G, WSCC/POE/13, ID/13 and ID/14

⁷¹ Documents Nos WSCC/POE/11 Appendix G-107 and ID/13

⁷² Document No WSCC/POE/1 paragraph 7.12.5

⁷³ Document No ID/14

⁷⁴ Document No ID/14: G-113 Nigel Godden's e-mail of 22 July 2021

⁷⁵ Document No ID/14: G-113 Nigel Godden's e-mail of 22 July 2021: Suggestion of a potential tripartite agreement, under which WSCC could undertake any remediation works on Plot 10b rather than Persimmon (with Persimmon retaining its obligation in respect of T&L Crawley's wider land holding)

Conclusion on T&L Crawley's objection

- 3.44 WSCC's diligent and meaningful engagement with T&L Crawley since 2019 clearly constitutes compliance with the CPO Guidance that '*Acquiring authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted*'. There is no obligation to reach agreement. In light of the matters set out above, the fact that agreement has not been reached in the present case should not present a bar to confirmation of the CPO which would facilitate an important and much needed Scheme.

Modifications⁷⁶

- 3.45 WSCC has requested that the Secretary of State makes the modifications to the CPO as discussed at the Inquiry, which are detailed in Inquiry Document ID/10A, as part of the confirmation of the CPO. Most of these modifications have been the subject of correspondence with the DfT, dated 10 December 2020 and 5 February 2021 and subsequent DfT/WSCC correspondence.
- 3.46 WSCC has requested that the Secretary of State makes the modifications to the SRO as discussed at the Inquiry, which are detailed in Inquiry Document ID/10A, as part of the confirmation of the SRO. Most of these modifications have been the subject of correspondence with the DfT, dated 10 December 2020 and 5 February 2021 and subsequent DfT/WSCC correspondence.

Conclusions

- 3.47 In light of all of the above reasons, WSCC submits that the tests in legislation and guidance for confirming the CPO and SRO are made out. There is a clear and pressing need for the Scheme, for which funding and the necessary approvals are in place, which has planning permission, and which does not suffer from any impediments. There is a compelling case in the public interest for confirming the CPO and SRO. WSCC invites the Inspector to recommend confirmation to the Secretary of State, subject to the modifications proposed.

4 THE CASE FOR THE OBJECTOR***T&L Crawley No 2 LLP (Owner and occupier of plots 10a and 10b)***

The material points⁷⁷ were:

- 4.1 T&L Crawley has indicated that it is fully supportive of the delivery of the Scheme. However, it is concerned that the Scheme would impede its ability to make available land for future affordable housing development. It has presented alternative solutions which it believes would ensure the delivery of the bypass without being detrimental to the timely and early delivery of a new affordable housing development.
- 4.2 T&L Crawley purchased the land that includes Plots 10a and 10b in May 2019. The land is subject to an over-arching outline planning permission

⁷⁶ Document No WSCC/POE/1 Sections 2.6 and 3.6

⁷⁷ Documents Nos OB/1 to OB/4

granted in 2013 and which extends over the wider area and includes, inter alia, for in excess of 1,200 residential dwellings. Under that permission the land is permitted to be developed for B1 business use, a 100-bedroom hotel and for other unspecified commercial use.

- 4.3 T&L Crawley intend to secure a hotel operator on some of the land, and to deliver other forms of employment use on another part of the land, including a public house, restaurant, or residential care home. It has agreed the sale of the remaining land, of which Plot 10b forms part, to a major registered housing provider who propose to construct 154 affordable homes. The agreement to purchase this land is predicated on the purchaser being on site and able to commence construction by no later than the end of 2021. Any proposal to make temporary use of any part of the land after that date would cause the sale of the land to collapse.

*Deed of Covenant with Persimmon*⁷⁸

- 4.4 When T&L Crawley purchased the land, it was subject to a Deed of Covenant (the Deed) with Persimmon, which requires Persimmon to undertake various works to the land to ensure it is fully capable of being developed, be that for the uses permitted under the extant planning permission, or such other use(s) for which planning permission has been secured or is being sought. The Works Completion Date is no later than 31 December 2021.
- 4.5 The consideration that T&L Crawley paid for the land encapsulated its value and costs attributed to enabling it to be developed for uses, including residential. WSCC's proposed temporary use of the land after 31 December 2021 will carry a very real and significant risk of its enabled state being negatively impacted. Therefore, T&L Crawley require provisions to be put in place to ensure that the land it gets back after the temporary use has ended is in all respects the same as existed prior to that use. This requires ongoing assessments/surveys, an agreed protocol for the operational use of the land and a suite of assessments/surveys prior to the land being returned. To avoid prolonged dialogue or dispute, a financial bond has also been requested. 'Heads of Terms' to enable a draft Objection Withdrawal Agreement to be agreed with WSCC have been drafted⁷⁹.

*Alternative Proposal*⁸⁰

- 4.6 An alternative proposal that has been presented to WSCC is to relocate the intended construction compound on Plot 10b to another area of land where it can either be incorporated with or alongside Plot 10a or otherwise kept separate. This would enable the bypass to proceed as currently planned and the delivery of a major affordable housing development. Whilst this solution would delay the delivery of commercial and employment development on the other area of land, on balance, it would be preferable to losing 154 much-needed new affordable homes in this area.
- 4.7 There has been limited engagement from WSCC with T&L Crawley. The CPO, as it currently stands, is premature, unjustified and is not a method of

⁷⁸ Document No OB/2

⁷⁹ Document No OB/4

⁸⁰ Document No OB/1

last resort. Further time is required to engage with affected owners prior to the use of compulsory purchase powers and for WSCC to show that the meaningful alternative suggested has been properly considered.

*Human Rights*⁸¹

- 4.8 The proposed Order is an infringement of T&L Crawley's human rights under the Human Rights Act 1998. The Secretary of State must consider whether, on balance, the case for compulsory purchase justifies interfering with the human rights of the owners and occupiers of the Order land. Under Article 1 of the First Protocol, no one shall be deprived of his possessions except in the public interest⁸². There are sufficient grounds to call into question whether WSCC has presented a compelling case in the public interest. As such, there is inadequate justification for interfering with the human rights of the owners and occupiers affected by the Scheme. The balance has not been struck between the individual rights and the wider public interest.

⁸¹ Document No OB/1

⁸² *Prest v Secretary of State for Wales (1982): 'In any case where the scales are evenly balanced – for or against compulsory acquisition – the decision – by whomsoever it is made – should come down against compulsory acquisition.'*

5 INSPECTOR'S CONCLUSIONS

- 5.1 Bearing in mind the submissions and representations I have reported, I have reached the following conclusions, reference being given in square brackets [] to earlier paragraphs where appropriate.

Objection by T&L Crawley No 2 LLP

- 5.2 T&L Crawley has objected to the CPO on the grounds that the acquisition of the two plots of land required for a temporary period as a site compound and for working space would have an adverse effect on the use of some of its land for residential development. However, it has not submitted a Statement of Case or proofs of evidence and did not attend the PIM or Inquiry. It has made further written representations concerning the reinstatement of the land to its state prior to the acquisition after its temporary use. **[3.30, 4.1 and 4.4]**
- 5.3 The land in the ownership of T&L Crawley is stated in the CPO Schedule as being required for temporary use, to provide working space for construction (Plot 10a) and for temporary use, for creation of compound area during construction of new carriageway and working space for the construction of an embankment (Plot 10b). Whilst T&L Crawley has indicated that it has an agreement with a major registered housing provider to purchase its land that includes Plot 10b subject to it being on site and able to commence construction by the end of 2021, T&L Crawley has offered no recent evidence regarding any progress on this agreement. I have insufficient details to give this any significant weight, particularly as the land in question does not benefit from planning permission for residential development and Arun District Council has indicated that it would be unwilling to grant such a permission. **[3.31 to 3.34 and 4.3]**
- 5.4 Whilst T&L Crawley has suggested alternative proposals to the use of Plot 10b as a site compound, it has not responded to WSCC's response indicating why these alternatives would not be acceptable. As such, I accept WSCC's justification for the temporary acquisition of Plot 10b as being the only suitable land to be used as a site compound. This is based on project constraints, design requirements, and health and safety, including the necessary arrangements for drainage, manoeuvring vehicles, accessing the viaduct using lifting equipment, the EA's concerns about the use of the floodplain in terms of increased flood risk, and ecology issues. **[3.36 to 3.40 and 4.6]**
- 5.5 The day before the Inquiry opened, T&L Crawley submitted a draft 'Heads of Terms' to try to reach an agreement with WSCC which it indicated would allow it to withdraw its objection. However, I accept WSCC's reasons why such an agreement would be unacceptable, as it would be unworkable and unsafe for Persimmon Homes to be entitled to carry out re-instatement works on the Order land following its acquisition and use for the construction of the Scheme. Furthermore, given WSCC's strong financial standing as a local authority, it is unnecessary to require a financial bond. There does not seem to me to be any valid reasons given by T&L Crawley as to why it has not accepted the form of agreement offered to it by WSCC. **[3.41 to 3.43 and 4.5]**

- 5.6 T&L Crawley has offered support for the principle of the Scheme and would benefit from its construction in terms of it providing access to its land in the long term. WSCC has demonstrated that T&L Crawley purchased the land when the Scheme proposals for the use of the land were public knowledge. Whilst the land has the benefit of extant planning permission for commercial development, including a hotel, this is in outline form and it is likely, given the proposed programme of works, that the temporary use of that land would cease before it would have any significant effect on the future development of the land. **[3.31, 3.34 and 4.1 to 4.3]**
- 5.7 WSCC has demonstrated that it has tried on frequent occasions to negotiate with T&L Crawley and it is continuing to do so in order to reach a settlement. However, due to the protracted negotiations with no agreement being reached over a significant time, I am satisfied that the compulsory purchase powers are being used as a last resort to minimise any uncertainty over the implementation of the Scheme and that WSCC has complied with the CPO Guidance in this respect. **[3.42 to 3.44 and 4.7]**
- 5.8 In terms of T&L Crawley's claims regarding an infringement of its rights to a peaceful enjoyment of its possessions under Article 1 of the First Protocol of the Human Rights Act 1998, I find that the protection of the public interest in terms of the temporary use of the land for the construction of the Scheme cannot be achieved by means which are less interfering of T&L Crawley's rights. I am therefore satisfied that the use of the compulsory purchase powers would be proportionate and necessary in the circumstances and would not result in a violation of T&L Crawley's rights under Article 1 of the First Protocol. **[3.23, 3.24 and 4.8]**

Side Roads Order (SRO)

- 5.9 In the case of the SRO, section 14 of the Highways Act 1980 requires it to be demonstrated that another reasonably convenient route is available or will be provided before the highway is stopped up⁸³. Regarding the stopping up of a means of access to premises, section 125 (3) of the Highways Act 1980 requires that no access to the premises is reasonably required, or that another reasonably convenient means of access to the premises is available or will be provided.
- 5.10 An alternative route is proposed for the stopping up of BW 2163 where it crosses the new bypass by way of a Pegasus crossing. Of the three private means of access to be stopped up, two would be replaced by new reasonably convenient means of access, with one representing an improvement, and the other means of access to be stopped up has been shown to have limited use and the land would be able to be accessed by other reasonably convenient accesses. I therefore find that the proposed Scheme would have sufficient benefits to justify its construction and the disadvantages would not carry enough weight to be a reason for not confirming the SRO. **[3.29]**
- 5.11 Based on the evidence provided and there being no remaining objections to the SRO, I find that reasonably convenient routes would be made available for the bridleway and 3 accesses that are proposed to be stopped up.

⁸³ Document No ID/5: PIM Inspector's Note paragraph 4

Therefore, taking account of the above, I conclude that all the SRO criteria are satisfied.

Compulsory Purchase Order (CPO)

- 5.12 With regard to the CPO, there are a number of considerations based on those matters given in the 'Guidance on Compulsory purchase process and The Crichel Down Rules July 2019' to be addressed in reaching my recommendations with regard to the CPO, namely there should be:
- A compelling case for acquisition in the public interest;
 - whether this justifies interfering with the human rights of those with an interest in the land;
 - whether the acquiring authority has a clear idea of how it intends to use the land which it is proposing to acquire;
 - whether the acquiring authority can show that all the necessary resources are likely to be available to achieve that end within a reasonable timescale, including sources and timing of funding; and
 - whether the scheme is unlikely to be blocked by any physical or legal impediments.
- 5.13 Having regard to the above considerations, I find that the objection to the CPO has been adequately addressed. I am satisfied that WSCC has provided sufficient robust evidence to demonstrate that there is a need for the Scheme to address existing transport problems and those that would be associated with future infrastructure schemes in the area, including the A27 Arundel Bypass. It would provide significant benefits to the public. These benefits include those associated with reducing the volume of vehicular traffic passing through Lyminster on the A284 and avoiding the delays due to crossing the railway by a level crossing. There would be a consequential improvement in the environment to make the village and Conservation Area more attractive for walking and cycling, and the Bypass would provide additional walking and cycling facilities. **[3.1 to 3.6 and 3.21]**
- 5.14 There are other benefits of the Scheme, which would complete the A284 Lyminster Bypass by joining onto the southern section that has been substantially completed. The A284 Lyminster Bypass (South) would provide access from the south to the North Littlehampton development which is currently under construction and would deliver 1,260 new homes and 700 new jobs. The completion of the Bypass would provide a north-south route to and from this new development. The Scheme would tie in with other proposed and existing highway improvements to provide an interlinked network and would assist in improving the infrastructure in what the evidence has indicated includes an area with above average levels of deprivation. **[2.4, 3.7 to 3.9 and 3.16]**
- 5.15 Lyminster Bypass has full support in development plan policies that protect its route and the WSTP that recognises its importance, and it accords with government guidance given in the NPPF in that it would facilitate housing and economic growth. The Outline TBC has supported the Scheme being entered in the Major Road Network programme and the DfT awarding it grant funding. An updated BCR has been estimated as 3.0 for the core analysis and 4.8 when off-peak and weekend benefits are included, which is

in the 'high' or 'very high' value for money category on the DfT's scale. All the above factors present a compelling case for acquisition in the public interest. **[3.10 to 3.19]**

- 5.16 I am satisfied that human rights and equality issues have been adequately considered by the acquiring authority. I find that any interference with Article 1 of the First Protocol would be proportionate, justified and necessary in the public interest to secure the objectives of the Scheme. Furthermore, compensation may be claimed by persons whose interests in land have been acquired or whose possession of land has been affected if the CPO is confirmed. **[3.20, 3.23 and 3.24]**
- 5.17 I find that all the land included in the Order is necessary to be acquired permanently or for temporary rights to implement the Scheme. I am therefore satisfied that the CPO addresses no more land than is necessary, and the acquiring authority has a clear idea of how it intends to use the land. **[3.25]**
- 5.18 Budgetary provision has been approved and there is nothing before me to indicate that the estimated cost of the Scheme would not be able to be met by the funding sources identified by WSCC. As such, I find that the Scheme would be able to be adequately funded. I am satisfied that, if the Orders are confirmed early enough, work would be able to start early 2022, with a completion towards the end of 2023. **[3.18, 3.25 and 3.26]**
- 5.19 Planning permission has been granted for the Scheme. No issues have been identified with regard to obtaining further permits, licences or orders as required. WSCC has considered the effects of the Scheme in the design in accordance with the Equality Act 2010 to address any issues regarding its duties under this Act. Therefore, taking account of the one remaining objection to the CPO, I am satisfied that the Scheme is unlikely to be blocked by any physical or legal impediments. **[3.20 and 3.27]**
- 5.20 In the light of all the evidence, I consider that there is a compelling case in the public interest for the Scheme to proceed and that this outweighs the private loss involved in compulsory acquisition. I therefore conclude that all the CPO criteria have been satisfied.

Modifications to the SRO and CPO

- 5.21 Having considered the modifications proposed by WSCC, I find that all the proposed modifications to the SRO and CPO are minor and are necessary. I therefore conclude that the Orders should be modified in accordance with the alterations identified in Appendix C to this Report, which represents a summary of those agreed at the Inquiry. **[3.45 and 3.46]**

Overall Conclusions

- 5.22 I am satisfied that there is a strong case for the Scheme to be implemented to relieve the village of Lyminster of congestion, and thus the consequential environmental problems, and to complete the A284 Lyminster Bypass, which provides access to new development and avoids the need to cross the railway by way of a level crossing. For these reasons, and having regard to the benefits of the Scheme, I find that there is a compelling case in the public interest for the Order land's compulsory acquisition, which justifies interfering with the human rights of those with an interest in the Order land. Loss of any interest could be met by compensation. I am also

satisfied that reasonably convenient routes and/or alternative means of access would be made available for the bridleway and 3 accesses that are proposed to be stopped up.

- 5.23 Therefore, I conclude that the Orders should be modified in accordance with the modifications in Appendix C to this Report and the Orders so modified be confirmed. I have had regard to all other matters raised, but they do not outweigh the conclusions I have reached and the recommendations that I make.

7 RECOMMENDATIONS

- 7.1 I recommend that:

The West Sussex County Council (A284 Lyminster Bypass (North) Classified Road) Side Roads Order 2020 be modified in accordance with the modifications in Appendix C to this Report and thereafter Confirmed; and

The West Sussex County Council (A284 Lyminster Bypass (North)) Compulsory Purchase Order 2020 be modified in accordance with the modifications in Appendix C to this Report and thereafter Confirmed.

M J Whitehead

INSPECTOR

APPENDIX A**APPEARANCES**

FOR THE ORDER MAKING AUTHORITY (WEST SUSSEX COUNTY COUNCIL)

Hugh Flanagan	of Counsel, instructed by Tony Kershaw, Director of Law and Assurance, West Sussex County Council
He called	
Guy Parfekt BSc(Hons) DIS CILT	Senior Planner, Transport Planning and Policy Team, West Sussex County Council
Andrew Burrows MEng CEng MICE	Associate Director, Capita Real Estate and Infrastructure
Tony Symonds BSc(Hons) CMAPS	Design Manager, Jackson Civil Engineering Group Limited
Mark Martin BSc(Hons) DipEco	Project Manager for the A284 Lyminster (North) Scheme, Highways Major Projects Team, West Sussex County Council
Nigel Godden BSc MRICS	Land and Property Director, WSP UK Limited

NO APPEARANCES FOR THE OBJECTOR

APPENDIX B**DOCUMENTS****West Sussex County Council Documents to support the Orders**

WSCC/SOC	Statement of Case and Supporting Documents
WSCC/CPO 1	CPO Site Notice
WSCC/CPO 2	CPO Press Notice
WSCC/CPO 3	CPO Statement of Reasons
WSCC/CPO 4	CPO Sealed Order
WSCC/CPO 5	CPO Plans
WSCC/CPO 6	CPO General Arrangement Drawings
WSCC/SRO 1	SRO Notice
WSCC/SRO 2	SRO Statement of Reasons
WSCC/SRO 3	SRO Sealed Order

West Sussex County Council Proofs of Evidence

WSCC/POE/1	Proof of Evidence of Nigel Godden
WSCC/SPOE/2	Summary Proof of Evidence of Nigel Godden
WSCC/POE/3	Proof of Evidence of Guy Parfect
WSCC/SPOE/4	Summary Proof of Evidence of Guy Parfect
WSCC/POE/5	Proof of Evidence of Mark Martin
WSCC/SPOE/6	Summary Proof of Evidence of Mark Martin
WSCC/POE/7	Proof of Evidence of Andrew Burrows
WSCC/SPOE/8	Summary Proof of Evidence of Andrew Burrows
WSCC/POE/9	Proof of Evidence of Tony Symonds
WSCC/SPOE/10	Summary Proof of Evidence of Tony Symonds
WSCC/POE/11	Composite Appendices to Proofs of Evidence
WSCC/SUPPOE/12	Supplementary Proof of Evidence of Guy Parfect
WSCC/POE/13	Appendix G Addendum to Proofs of Evidence
WSCC/POE/14	Appendix Y to Proofs of Evidence: Transport Business Case, January 2021
WSCC/POE/15	Appendix Z to Proofs of Evidence: Extracts from: Lyminster Bypass Transport Business Case: Transport Business Case, November 2015

Documents Submitted on behalf of Objector No 5: T&L Crawley No 2 LLP

OB/1	Letter from Roger Hannah, dated 26 October 2020 re T&L Crawley No 2 LLP Objection
OB/2	Letter from Roger Hannah, dated 1 July 2021 re T&L Crawley No 2 LLP Objection
OB/3	Letter from Roger Hannah, dated 23 July 2021 re T&L Crawley No 2 LLP Objection
OB/4	E-mail from Roger Hannah, dated 9 August 2021 re Proposed Heads of Terms for Objection Withdrawal Agreement

Documents Submitted prior to the Inquiry

ID/1	Pre- Inquiry Meeting Agenda
ID/2	Transport Privacy Notice
ID/3	Guide to taking part in a virtual hearing/Inquiry
ID/4	Virtual Public Inquiry Notice

ID/5	Pre- Inquiry Meeting Inspector's Note
ID/6	As Document OB/2
ID/7	E-mail from Blandy & Blandy, dated 8 July 2021 re Statement of Case and Objections
ID/8	Objection Withdrawal e-mail, dated 9 August 2021 re HCC 2011 Ltd, Mrs Andrew, and Ricotte Investments

Documents Submitted during the Inquiry

ID/9	WSCC Opening Statement & List of Appearances
ID/10	Proposed modifications Composite table, dated 10 August 2021
ID/10A	Revised Modification to ID/10, dated 11 August 2021
ID/11	Revised CPO Schedule Table 1, dated 11 August 2021
ID/12	Revised SRO Schedule, dated 11 August 2021
ID/13	Appendix G-107-1: Attachment to e-mail reference G-107 sent 2 July 2021 at 15:57 Proposed Agreement for Objector T&L Crawley No 2 LLP
ID/14	Additional Supporting G Appendix E-mails G-111 to G-116
ID/15	Site Visit: Key Locations Plan
ID/16	WSCC Closing Statement

APPENDIX C

SCHEDULE OF RECOMMENDED MODIFICATIONS

Recommended modifications to the CPO

Article 1c	Revise to read ' <i>the provision of new means of access to premises in the vicinity of the route of the new and improved highways referred to in paragraphs a and b above in pursuance of The West Sussex County Council (A284 Lyminster Bypass (North) Classified Road) (Side Roads) Order 2020</i> '
Article 2 (1)	Revise the plan references to read respectively ' <i>A284LY-CAP-GEN-00-DR-C-0208 Revision P13 and A284LY-CAP-GEN-00-DR-C-0209 Revision P09</i> '
The Schedule Table 1 Plot 8a	Delete the words ' <i>, for temporary use, to provide working space for fencing and site clearance</i> '
The Schedule Table 1 Plot 9a	Delete the word ' <i>residential</i> '
The Schedule Table 1 Plot 9b	Delete the word ' <i>residential</i> '
The Schedule Table 1 Plot 10a	Amend the wording to refer to ' <i>commercial development land</i> ' instead of ' <i>residential development land</i> '
The Schedule Table 1 Plot 10b	Amend the wording to refer to ' <i>commercial development land</i> ' instead of ' <i>residential development land</i> ' and insert ' <i>and working space for the construction of an embankment</i> '

Recommended modifications to the SRO

The Schedule	Delete the words ' <i>Highways to be Improved Lyminster Road (A284)</i> '
Article 1. (1)(a)	Delete section '(a)'
Article 1. (1)	Revise section '(b)' to ' <i>(a)</i> '
Article 1. (1)	Revise section '(c)' to ' <i>(b)</i> '
Article 1. (1)	Revise section '(e)' to ' <i>(c)</i> '
Article 1. (2)	Delete Article 1. (2)
Article 1.	Revise ' <i>Article 1. (3)</i> ' to ' <i>Article 1. (2)</i> '
Article 1.	Revise ' <i>Article 1. (4)</i> ' to ' <i>Article 1. (3)</i> '

Article 1.	Revise 'Article 1. (5)' to ' Article 1. (4) '
Article 1. (2) as modified	Delete 'Each new highway is given a reference letter on a Site Plan, which is also placed in the said Schedule, and will be a road unless the word "footpath" "bridleway" or "cycle track" appears beneath its reference letter in that Schedule, in which case it will be a footpath bridleway or cycle track (as the case may be).'
Article 1. (3) as modified	Revise 'Article 1. (3)', as modified, to read ' Where a new access is to be provided in connection with the stopping up of a private means of access described in the said Schedule, its reference number is placed in the said Schedule opposite the description of that length. '
Order Plan 1 of 2: A284LY-CAP-HGN-00-DR-C-0240 Rev P09'	Revise 'Private Means of Access to be Stopped Up' to ' Highways to be Stopped Up ' in the legend
The Schedule	Amend the wording for Access A under 'Private Means of Access to be Stopped up' to refer to ' 0.8 metres north of Brookfield Stream ' instead of '800 millimetres south of Brookfield Stream'
The Plan Folio	Add in the legend with appropriate demarcation ' Highway to be stopped up '
Order Plan 2 of 2: A284LY-CAP-HGN-00-DR-C-0241 Rev P10	Annotate below the letter '(c)' in the top right inset ' see main plan '
The Plan Folio	Under the heading 'Existing Highway Layout' reverse the order of the third and fourth dotted/dashed lines
Order Plan 2 of 2: A284LY-CAP-HGN-00-DR-C-0241 Rev P10	Under the heading 'Existing Highway Layout' reverse the order of the third and fourth dotted/dashed lines