

The Lancashire County Council (Preston Western Distributor, East West Link and Cottam Link Roads) Compulsory Purchase Order 2018, The Lancashire County Council (Preston Western Distributor, East West Link and Cottam Link Roads) (Side Roads) Order 2018, The Lancashire County Council (Lea Viaduct) Scheme 2018 and The Lancashire County Council (Savick Brook Viaduct) Scheme 2018

NOTE OF PRE-INQUIRY MEETING

31 July 2017

The Exchange, County Hall, Preston

The meeting was attended by representatives of Lancashire County Council (LCC) as the acquiring/promoting authority and those for some of the remaining objectors.

The Inspector's introduction and opening remarks

1. The Inspector, Philip Asquith, introduced himself and the Programme Officer, Yvonne Parker. He explained that he had been appointed to hold inquiries¹ (which would be concurrent) and to report with recommendations on whether or not the above Orders and Schemes should or should not be confirmed. The report would be to the Secretary of State for Transport. The purpose of the pre-inquiry meeting was to discuss procedural and administrative matters relating to the inquiry, scheduled to open on Tuesday 20 November 2018, and to ensure that there is clarity about the arrangements to enable the inquiry to run smoothly.
2. The Programme Officer's role would be to act as the point of contact for all administrative matters both before and during the inquiry. She would be responsible for the receipt and forwarding of documents, the maintenance of an inquiry library and, in conjunction with the Inspector, the preparation of a draft programme for the inquiry.

Appearances at the inquiry

3. LCC would be represented by Mr John Barrett, of Counsel. On the basis that the procedure that might be adopted at the inquiry would be the presentation of LCC's overall case for the making of the Orders, followed by dealing with each relevant objection in turn (referred to below), Mr Barrett indicated his expectation that the following witnesses would be called to present the overall case:

Phill Wilson, engineer (scheme overview);

¹ Whilst correct to refer to inquiries in the plural, as there will be one event and, for the sake of convenience, inquiry is used in the singular hereafter.

Jon Haine, planning witness (policy);
Alan Eastham, engineer (overall highway design);
Sergey Makov, (traffic and transport dealing with the existing situation and how the Preston Western Distributor would address existing and future traffic);
Steve Brereton, (landscape); and
Niamh O'Sullivan (environmental masterplan/overall environmental impact/compliance with Habitats Regulations).

4. The witnesses for responding to individual objections will be bespoke; until evidence is provided it is not possible to be certain which witness(es) will need to respond.
5. Messrs Paul Tucker QC and John Hunter of Counsel, instructed by Mr John Francis of dpp Planning, would be representing the objecting Trustees of the Tom Barron 1978 Pension Scheme, the Trustees of the Pension Fund (and also likely, Robertsons, who have entered a development agreement). Likely witnesses would be:

John Francis (planning);
a highways and transportation witness;
an ecology witness;
a possible witness from Tom Barron Farms;
a possible witness from Robertsons; and
a witness on funding/viability.

(Depending on circumstances, it may be that evidence could be in written form rather than necessitating witnesses actually appearing).

6. Mr Simon Mair of P Wilson & Company, who represents 21 remaining objectors, indicated that purposeful negotiations with LCC were ongoing, with objections being to the detail of the proposals rather than to their principle. If objections couldn't be resolved then either he or Mr Andrew Coney of P Wilson & Company would appear on behalf of the objectors (unless there were specific legal issues raised). It would not be the intention for the objectors to appear in person.
7. Ms Caroline Musker indicated on behalf of remaining objector Taylor Wimpey UK Limited/Bloor Homes Limited that discussions with LCC were ongoing and it was hoped that attendance at the inquiry to support an extant objection would not be necessary. However, in the event that the objection remained and attendance was necessary, then either she or Mr Simon Pemberton of Lichfields would present evidence.

8. At the prior request of the Inspector, LCC had produced a schedule of engagement with the objectors, which indicated contact and ongoing discussions. This was in order to gauge whether objections were likely to be withdrawn and thus assist in the programming of the inquiry. Both Mr Mair and Ms Musker indicated that it was hoped agreements could be reached with LCC prior to the need for the production of detailed evidence in respect of objections. Mr Barrett suggested that, in the hope that agreements could be reached so that objector numbers were reduced, the third programmed week of the inquiry may not be necessary.

Statements of Case, Statements of Evidence and other documentation

9. A detailed Statement of Case had been produced by LCC, which the Council indicated had been sent to all remaining objectors.
10. Statements of Evidence from all those who would be providing evidence for the inquiry should be provided no later than **3 weeks before the inquiry opening (30 October)**, ideally sooner if possible. There should be direct exchange of statements between LCC and objectors, with confirmation to the Programme Officer that this had been done.
11. If any Statement of Evidence runs to more than 1,500 words it must be accompanied by a separate summary. Statements should be bound separately from summaries and from appendices. All documents should be clearly labelled as to their author and title, and paginated. Appendices should be tabbed and paginated. Two copies of statements, summaries and appendices, together with an electronic copy of each, should be provided for the Inspector via the Programme Officer.
12. It will be summaries of Statements of Evidence that are to be read out at the inquiry, but the whole of the evidence of someone appearing can be subject to cross-examination.
13. Should any rebuttal statements be necessary these should be provided at **least three working days** prior to the appearance of the witness to whose evidence the rebuttal refers.
14. The parties should liaise with the Programme Officer regarding a referencing system for documents.
15. The Programme Officer will require everything electronically but statements and other documents will not be deemed to have been received until hard copies are also received.

16. Any opening submissions should be in writing. As the Inspector would intend using closing submissions as the basis of the summary of cases in his report, these should be in writing and adequately referenced. Electronic copies of opening and closing submissions (in Word format) should also be submitted.
17. The Programme Officer will maintain a library of inquiry documents. Inquiry documents will be published on the inquiry website <http://programmeofficers.co.uk/preston2018/>. LCC has already included within its Statement of Case a considerable list of relevant documents and which are now on the website. These now form the basis of the list of Core Documents, which will no doubt be updated and expanded as the inquiry draws nearer.
18. In respect of the Compulsory Purchase Order (CPO), the Inspector referred to the importance of coverage within evidence of the matters set out in paragraphs 13-15 of the Ministry of Housing, Communities & Local Government '*Guidance on Compulsory purchase process and The Criche! Down Rules*' (matters which justify making the Order, resourcing implications, and whether there are impediments to the scheme to which the Order relates).
19. To assist in understanding, the Inspector requested of LCC that the following could be provided:
 - a plan showing all approved and existing recent developments within the vicinity of the proposed road scheme;
 - a composite plan showing the road scheme superimposed on the Order Lands in order to be able to fully understand the relationship between the two; and
 - at the inquiry it would be helpful to have display boards on which relevant plans could be displayed.

Procedure at the inquiry

20. The Inspector sought the views of the parties on alternative methods of ordering the presentation of evidence at the inquiry.
21. He suggested a preference for the method by which, first, there is presentation by LCC of its overall case for the making of the Orders and Schemes, this being followed by dealing with each relevant objection in

turn. There was no dissent from this. Therefore, the order of proceedings will be as follows:

- (i) LCC's overall case, with evidence-in-chief on general matters, with the opportunity for objectors to seek clarification of any points;
- (ii) Evidence in respect of each remaining objection. LCC would present its case specific to that objection, with the relevant objector having the opportunity of cross-examining witnesses. This would be followed by evidence from the specific objector, with the opportunity for cross-examination by LCC, and then any closing submission on behalf of the objector. This process would be followed for each subsequent objection.
- (iii) LCC's response to written objections; and
- (iv) LCC's closing submissions.

Inquiry dates, sitting times and inquiry venue

- 22. The inquiry is due to open at 10.00 on 20 November 2018, the venue being the Savoy Suite, The Exchange, County Hall, Preston, PR1 8XJ.
- 23. At present the inquiry is scheduled for 12 sitting days, spread over three consecutive weeks: 20–23, 27–30 November and 4–7 December (with no sitting days on Monday 26 November or Monday 3 December).
- 24. Sitting times would normally be 10.00 to 17.00, with an hour's break for lunch, though there could be some flexibility if required, depending on progress.
- 25. An initial inquiry skeleton programme would be prepared by the Programme Officer by 23 October. Following the submission and exchange of Statements of Evidence (**by 30 October**), detailed time estimates for examination-in-chief and cross-examination should be submitted by participants by **6 November (two weeks prior to the start of the inquiry)**, following which a detailed inquiry timetable will be circulated.

Site visits

- 26. As part of the inquiry process it will be necessary for the Inspector to make visits to see the Order lands within the context of the cases put forward. He would expect to undertake a site visit(s) accompanied by representatives of LCC and objectors if it is necessary to enter private land or for specific features to be pointed out. This would normally be after the close of the inquiry. However, consideration could be given to undertaking a visit(s) towards the close of the inquiry (in order to allow additional time, if needed, for the preparation of closing submissions) or on non-sitting days,

particularly given the time of year with likely weather and light constraints. Arrangements will be made when the inquiry opens.

Any Other Business

27. Mr Hunter, on behalf of Tom Barron 1978 Pension Scheme and the Trustees of the Pension Fund referred to the issue of the legal position regarding the whether the correct relevant legislation had been used by LCC, as planning authority, under which permission/consent for the Preston Western Distributor Road scheme has been sought. This is subject to dispute between the objector and LCC, with Counsel opinion having been sought on both sides. Mr Hunter indicated that there had been attempts to reach amicable agreement on the issue with LCC. However, it had become clear that it was not going to be possible to reach common ground. It was therefore the objector's position that imminently it would be making an application for expedited judicial review of the Council's decision to pursue a planning permission for the road scheme under the Town and Country Planning Act 1990 rather than under the Planning Act 2008.
28. Mr Barrett, for LCC, stated that, within the context of the inquiry, he was acting on behalf of LCC as the highway authority seeking confirmation of the Orders and not on behalf of LCC as the planning authority, for which he did not speak. Any response to the action sought would be a matter for LCC as the relevant planning authority. However, it was important that there should be no delay in the inquiry process as a prompt decision on the Orders and Schemes was critical in terms of securing the sources of funding for the project.
29. There is considerable uncertainty at this stage whether this issue might be resolved before the scheduled opening of the inquiry. The parties should keep the Programme Officer up to date on this matter and, until there is further progress, the timetabling for the inquiry remains as set out.
30. So far as the present position regarding the planning situation in respect of the road scheme, LCC has resolved to grant planning permission subject to the conclusion of a s.106 agreement. This has not yet been concluded. The Council is also revisiting the environmental assessment undertaken in connection with the road scheme. This is in light of a recent judgement by the Court of Justice of the European Union in respect of Article 6(3) of the Habitats Directive and whether Appropriate Assessment may be required. It was indicated that these matters should be resolved before the opening of the inquiry.
31. Mr Barrett, for LCC, flagged up a matter in respect of CPO Plot 129 on a Taylor Wimpey housing site which, at the time of making the Order, was undeveloped. This has since been laid out but not made accessible as public

open space as required as part of the relevant planning permission. At the inquiry it will be the intention to seek agreement to the substitution of alternative replacement land.

Philip J Asquith

2 August 2018