

THE HIGHWAYS ENGLAND (M27 Southampton Junction 8 Improvement Scheme- M27 Junction 8 and Windhover Roundabout) (Special Road)) Side Roads Order 2021

THE HIGHWAYS ENGLAND (M27 Southampton Junction 8 Improvement Scheme- M27 Junction 8 and Windhover Roundabout) (Special Road)) Compulsory Purchase Order 2021

APPLICATION BY National Highways (NH) (formerly Highways England)

(the Acquiring Authority)

NOTES OF PRE-INQUIRY MEETING

(This note should be read in conjunction with the accompanying Directions Note)

Held on Friday 17 September 2021 @ 1400 hours via Microsoft Teams platform

1. Inspector's Introductions and Opening Points

- The Inspector welcomed those present and introduced herself as Ms Karen L Ridge LLB (Hons) MTPL Solicitor. She has been appointed by the Secretary of State for Transport to conduct concurrent Inquiries into the 2 Orders referred to above and to prepare a Report, with Recommendation, to the Secretary of State.
- The Inspector confirmed that following the Pre-Inquiry meeting she would issue a note recording the events of the meeting (this document) and a set of directions setting out a timetable for the provision of all evidence and other documentation as required. A draft programme will be provided by the Inspector to the parties one week before the commencement of the Inquiry for comments. The finalised programme will be issued no later than **26 November 2021**.
- The Inspector confirmed that Mrs Yvonne Parker has been appointed as the Programme Officer for the Inquiries and she will be the main point of contact for all parties regarding administrative and other procedural arrangements. Her main duties, under the direction of the Inspector, are:
 - Acting as the link between participants and the Inspector;
 - Keeping records of those attending the pre-Inquiries meeting and Inquiries;

- Organising and keeping under review the Inquiries programme;
 - Organising practical arrangements for the Inquiries, including co-ordinating and advising on appearances;
 - Co-ordinating the receipt and distribution of documents;
 - Maintaining the Inquiry website and document lists; and
 - Planning site visits.
- She will play no part in the Inspector's report to the Secretary of State beyond helping with the collation of lists of those appearing at the Inquiries and of Inquiries documents, which will be appended to it.
 - The Inquiry website is the central repository for all Inquiry documents and announcements. It will be maintained and updated by Mrs Parker and once it has been set up can be found at:
<https://programmeofficers.co.uk/M27J8/>
 - The Programme Officer's contact details are given below:
 - Telephone no.: 01282 450522
 - Mobile no.: 0781 3334305
 - Email address: yvonneparker@programmeofficers.co.uk
 - Address: 2 Priory Court, Burnley, Lancashire, BB11 3RH

2. Purpose of the Public Inquiries

- The Inquiries are into applications for confirmation of two orders made by National Highways (the Acquiring Authority) as set out above.
- The purpose of the Inquiries is to enable the Inspector to gather evidence before making her report to the Secretary of State. In her report she will set out the gist of the evidence given to the Inquiries and recommend either that: The Side Roads Order and the Compulsory Purchase Order should be confirmed, they should be modified and confirmed, or they should not be confirmed.

The Secretary of State will consider the Inspector's report before deciding what action to take on the Orders.

- The Inquiries will hear representations concerning the above Orders in light of, but not limited to, objections which have been made and not withdrawn.
- The Inspector confirmed that she had been appointed following the introduction of virtual Inquiries which resulted due to the Covid-19 pandemic. She explained that it was her role to ensure that the procedure for the Inquiry was fair for all participants and to ensure that all parties have the right to be heard. It is intended that the Inquiries will now take place primarily as an in person event. If any party considers that they would have difficulty attending in person and would prefer to make representations using the Teams platform they should alert the Programme Officer as soon as possible so that alternative arrangements can be considered.

3. The Purposes of the Pre-Inquiry Meeting

- The Inspector said that one of the purposes of the meeting was to discuss all administrative and procedural arrangements for the Inquiries which are now scheduled to open on 30 November 2021. **Sitting days are currently scheduled for 30 November – 3 December 2021 inclusive and 7 December 2021**, with two reserve days on 6 and 8 December 2021. Decisions on the sitting days will be made in the week before the Inquiry opens and during the Inquiry itself. The Inspector will liaise with the main parties before making any decisions.
- The Inspector explained that the meeting was also to discuss the format of the Inquiry, the focus of the evidence and the most appropriate means of testing that evidence.

4. Identity of the various parties to the Inquiry

- The parties to the Inquiry were asked to identify themselves. The Acquiring Authority is represented by Mr Mark Westmoreland Smith of Counsel, instructed by Ms Susanna Wetherstone, and he indicated that he intended to call the following witnesses and their topics of expertise:
 - Harriet Massie-Taylor- to provide a scheme overview.
 - Claire Williams- planning.
 - Gavin Tremeer- land acquisitions.
 - David Stone- transport.
 - James Williams- noise.
 - Jason Ball- flooding.
 - Alanna Cooper- ecology.
 - Philip Black- landscape
- There are 5 objectors.
 - Mr Christian Zwart of Counsel is instructed by Anita Kasseean, Sadie Pitman and Julian Wolfgramm-King of Blake Morgan LLP acting on behalf of Mr Mark Keeling. He intends to call the following witnesses:
 - Mr Moore of Leake Engineers on highways and flood risk.
 - Mr Prince of Mode Transport Planning on transport and safety considerations.
 - Ms Sarah Benden of Savills on planning.
 - One objection has been received from a statutory undertaker (Southern Gas). Mr Westmoreland Smith indicated that negotiations with this statutory undertaker were ongoing and it was anticipated that agreements would be reached before the opening of the Inquiry.
 - The remaining three objectors did not appear at the Pre-Inquiry Meeting and their positions are unknown at this time.
- Any other objectors and supporters who may wish to speak at the Inquiry and they should notify the Programme Officer of their interest. The Inspector indicated that she would programme time to hear from all interested parties at the Inquiries.

- At the Inquiries the Inspector will wish to hear from anyone who has a relevant point to make in connection with the Orders. Parties may appear at the Inquiries in person and may be represented by counsel, a solicitor or some other representative. It may be that arguments for or against the Orders could be made more effectively and succinctly by one person/organisation than by many individuals making the same points in slightly different ways. The Inspector urges parties/individuals to get together wherever possible to present joint cases through a single spokesperson. In order to ensure that the Inquiries are completed as expeditiously as possible, the Inspector will intervene to prevent any unnecessary repetition.
- People who do not need, or wish, to speak at the Inquiries will, nonetheless, be welcome to attend as observers. In considering the Orders and associated matters, the Inspector will take account of all of the evidence heard at the Inquiries, as well as written representations received before it closes. However, greater weight can be attached to evidence given at the Inquiries which is open to testing through cross-examination.

5. **Main Issues/topics to be addressed:** it was agreed that the principal issues are:

- **Side roads order:** Highways, statutory undertakers, need for Scheme, alternatives- engineering options and CPO provisions, adverse impacts, highway design, flood and drainage considerations (including alternatives in light of the sequential test), impediments to delivery.
- **CPO:** The Inspector will wish to ascertain whether there is a compelling case in the public interest and the purposes for which the Compulsory Purchase Order has been made, which sufficiently justify interfering with the human rights of those with an interest in the land affected.

In relation to these matters reference will be made to the Ministry of Housing Communities and Local Government Guidance on compulsory purchase process and The Crichel Down Rules, 2019, which draws attention to, amongst other things, the following:

- Particular consideration should be given to the provisions of Article 1 of the First Protocol of the European Convention on Human Rights and, in the case of a dwelling, Article 8.
- The Acquiring Authority (AA) should have a clear idea of how it intends to use the land it is proposing to acquire;
- The AA should show that all the necessary resources are likely to be available to achieve the scheme purpose within a reasonable timescale; and,
- The AA should be able to show that there is a reasonable prospect of the scheme going ahead, and that it is unlikely to be blocked by any impediments to implementation. adequacy of options consultation.

6. **Statements of Common Ground/Areas of Disagreement**

- On behalf of the Acquiring Authority, Mr Westmoreland Smith indicated that there has been further work done since the preliminary scheme design. He agreed that the following additional information could be put before the Inquiry by **no later than 4pm on 8 October 2021**. This information will be sent to the objectors and published on the Inquiry website. The additional information is:
 - New general arrangement plan
 - Transport note detailing reduction of slip lanes to two
 - Air Quality technical note
 - Noise technical note
 - Information on hydraulic modelling and flood risk assessment addendum.
- It was further agreed that the Acquiring Authority will prepare a list of **core documents** in conjunction with Mr Keeling and other objectors. This document, together with PDF versions of all core documents will be sent by the AA to the Programme Officer by **no later than 4pm on 18 October 2021**. The core documents list will then be published on the Inquiry website and should be utilised by all witnesses in the preparation of their evidence.
- It was further agreed that consideration would be given as to whether or not there was scope to agree statements of common ground with Mr Keeling. Any Statements of Common Ground should be submitted to the Programme Officer by **4pm on Monday 25 October 2021**.

7. **Procedure at the Inquiry**

- The starting position is that the Inquiry will be an in-person event starting at **10.00am on Tuesday 30 November 2021 at Highpoint Centre, Bursledon Road, Thornhill, Southampton, SO19 8BR**.
- Following discussion, it was agreed that the Inquiry will take place in a number of parts, as follows:
 - Essentially the first part will involve National Highways, as the Acquiring Authority, calling all of its witnesses in turn who will each give evidence in chief and Mr Zwart (on behalf of Mr Keeling) will cross-examine each of the witnesses in turn. Other objectors will also be offered the opportunity to cross-examine each individual expert. There will then be re-examination of each of the witnesses. The Inspectors indicated that she will ask her questions as the evidence progresses.

- The second part of the Inquiry will entail the case of Mr Keeling being heard. Mr Zwart will call each of his three expert witnesses who will give evidence in chief. They will be cross-examined by Mr Westmoreland Smith and there will be re-examination. The Inspector will continue to ask her questions as they arise during the giving of evidence.
- The third part of the Inquiry will involve a session in which any other objectors or Interested Persons will be invited to make their representations. The Inspector indicated to Mr Westmoreland Smith that, if necessary, he would be permitted to make application to recall any of his professional witnesses to deal with any points made.
- The above sets out a running order anticipated at this time. Parties should note that this may be subject to change but that any change will be notified in advance so that all parties are aware. Detailed programming will take place in the week immediately preceding the Inquiry.
- The Inspector indicated that the Inquiry would sit for 5 hours a day. She anticipated that the first morning would start at 10.00am but thereafter the Inquiry day may start at 9.30am. There will be a one-hour lunch break and mid-morning and mid-afternoon breaks. The Inspector will make every effort to accommodate the timing requirements of those wishing to speak. If any witness or party cannot attend on a given day, they should notify the Programme Officer as soon as possible.

8. Arrangements for site visits

- The Inspector hopes to do most of the site visits on an unaccompanied basis. She will conduct a series of unaccompanied site visits before the Inquiry opens. She will conduct further site visits (unaccompanied and accompanied if necessary) during or after the Inquiry.
- The Inspector asks National Highways, in the first instance, to provide a suggested itinerary of viewpoints and routes (together with maps) for the Inspector at least two weeks before the Inquiry opening and **no later than 4pm on 19 November 2021**.
- The National Highways lists will be published on the Inquiry website and the Inspector asks that following publication- if any other party wishes to suggest **additional** viewing locations these should be notified to the Programme Officer (with a clear map) **by no later than 12 noon on Friday 26 November 2021**.

9. Nature and Format of Evidence

- A timetable for submission of all documents to include: SCG, proofs, core documents, rebuttals was discussed and is set out in the directions notice which accompanies this Note.

- The **core documents** list will be finalised and submitted by National Highways to the Programme Officer by no later than 4pm on **Monday 18 October 2021**. It will be published on the Inquiry website and all parties should use it to refer to documents in their evidence.
- If, in evidence, reference is made to any other document, which is not included in the list of core documents, a copy of that document (or the relevant extract plus the cover page), must be submitted as an appendix to the proof of evidence. Those who wish to rely on material from the internet must provide printed copies of the material in question, as the content of websites can change and it is important that the Inspector and the Secretary of State see the information the witness intends them to see.
- All evidence will be submitted electronically. Where possible the Inspector would prefer links to appendices embedded within the proofs (this applies primarily to professional witnesses). All parties' **proofs of evidence** (including those of statutory objectors), **all other representations** should be submitted by no later than **4pm on Monday 1 November 2021**.
- Summary proofs are not essential but if they are not to be provided, there should be a clear summary/conclusions section which the witness can be directed to in examination in chief.
- All professional witnesses are expected to provide a reading list accompanying their evidence. The lists need not be exhaustive but should be intended to direct the Inspector's reading to key pieces of evidence underpinning the statements.
- **Rebuttal proofs** which deal only with issues raised by the proofs of evidence of opposing party should be submitted by **no later than 4pm on Monday 15 November 2021**. The Inspector reiterated that rebuttals are not an opportunity to introduce new issues.
- The Inspector confirmed that, following the submission of evidence and documents, the Programme Officer will upload all submissions onto the Inquiry website as soon as possible and by no later than 2 days following submission.

10. Listing, numbering and Availability of Documents

- The Inspector urges parties to ensure that proofs of evidence and associated documents conform to the following guidelines:
 - Document number on the top right corner of cover page;
 - Indicate on the cover page the name of the party on whose behalf the evidence is given, the name of the witness, relevant qualifications and the topic(s) covered;
 - Number all pages and paragraphs;
- The importance of referencing documents so that they can easily be located cannot be overstated. To that end, all parties are directed to the Note on Referencing Documents which accompanies this Note. Each party should agree their proposed approach in advance with the Programme Officer, in the interests of consistency and clarity.

11. Written Representations

- The Inspector requested that if anyone intends to submit additional written representations rather than appearing at the Inquiries, they should be submitted to the Programme Officer, in the same way as main proofs, **not later than 4pm on Monday 1 November 2021.**

12. Inquiries Programme

- At present arrangements have been made for the Inquiry to sit for 5 days. Sitting days are currently scheduled for 30 November to 3 December 2021 inclusive, and 7 December 2021, with two reserve days on 6 December and 8 December 2021.
- The Programme Officer will be contacting all parties who indicate that they intend to appear to gain information needed to draw up a programme for the Inquiries.
- In any event, the following information must be submitted to the Programme Officer by no later than **12 noon on Monday 22 November 2021**, by all those who intend to appear at the Inquiry to give evidence:
 - The duration of any opening and closing statements, if any are to be made;
 - The duration of evidence in chief for each of their own witnesses;
 - Details of the opposing witnesses they wish to examine and the duration of cross-examination of each of the opposing parties' witnesses.
- The Inspector will use that information to compile a draft programme for the Inquiries, which will be of benefit to all concerned and aid the smooth running of the proceedings and efficient use of time.

13. Other Procedural and Administrative matters

In addition, all Inquiry documents submitted in an electronic format to the Programme Officer can be viewed from 27 September on the Inquiries website at: <https://programmeofficers.co.uk/M27J8/>

Karen L Ridge

Inspector

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DIRECTIONS GIVEN AT PRE-INQUIRY MEETING

This note should be read in conjunction with the Notes of Pre-Inquiry Meeting

Held on Friday 17 September 2021 @ 1400 hours via Microsoft Teams platform

1. National Highways will send the following documents to the Programme Officer for publication on the Inquiry website by no later than 4pm on 8 October 2021:
 - New general arrangement plan
 - Transport note detailing reduction of slip lanes to two
 - Air Quality technical note
 - Noise technical note
 - Information on hydraulic modelling and flood risk assessment addendum.
2. A Core documents list shall be finalised by National Highways, the Acquiring Authority, in agreement with other parties and submitted to the Programme Officer **by no later than 4pm on Monday 18 October 2021.**
3. All Statements of Common Ground should be submitted to the Programme Officer by no later than **4pm on Monday 25 October 2021.**

4. Proofs of evidence from all main parties (the Acquiring Authority and Statutory Objectors) shall be in the format discussed at the Pre-Inquiry Meeting and shall be submitted to the Programme Officer by no later than **4pm on Monday 1 November 2021**.
5. Any other objectors/representors wishing to submit additional written representations rather than appearing at the Inquiry, should submit those written representations to the Programme Officer, in the same way as main proofs, **not later than 4pm on Monday 1 November 2021**.
6. Any rebuttal proofs of evidence or supplementary statements must be submitted to the Programme Officer by **no later than 4pm on Monday 15 November 2021**.
7. National Highways shall submit a suggested itinerary of unaccompanied and accompanied site visits, including relevant viewpoints, routes and maps to the Programme Officer by **4pm on 19 November 2021**. Other parties can suggest additional routes and viewpoints which must be provided to the Programme Officer, with a clear map, by no later than **12 noon Friday 26 November 2021**.
8. All main parties, to include the Acquiring Authority and the Statutory Objectors, shall submit to the Case Officer a final list of the names of the advocates appearing, those witnesses they will be calling and their professional qualifications together with updated time estimates for examination and cross examination, no later than **12 noon on Monday 22 November 2021**. A reading list in relation to each witness's evidence shall be submitted setting out the key documents upon which that evidence relies.

Karen L Ridge

INSPECTOR

The Programme Officer is Mrs Yvonne Parker

Her details are as follows:

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- Mobile no.: 0781 3334305
- Email address: yvonneparker@programmeofficers.co.uk
- Address: 2 Priory Court, Burnley, Lancashire, BB11 3RH

Inquiry website: <https://programmeofficers.co.uk/M27J8/>