

PUBLIC INQUIRY

THE NORTH SOMERSET COUNCIL (SOUTH BRISTOL LINK CLASSIFIED ROAD)
SIDE ROADS ORDER 2013

THE NORTH SOMERSET COUNCIL (SOUTH BRISTOL LINK)
COMPULSORY PURCHASE ORDER 2013

THE NORTH SOMERSET COUNCIL (SOUTH BRISTOL LINK)
COMPULSORY PURCHASE ORDER (No 2) 2014

EXCHANGE LAND CERTIFICATES IN RESPECT OF SPECIAL CATEGORY LAND

INSPECTOR'S PRE-INQUIRY NOTE

1 Purpose Of This Note

- 1.1 The purpose of this note is to assist parties in preparing for the Inquiry, so that it can run more efficiently than might otherwise be the case. It is being issued to the promoter (North Somerset Council, in partnership with Bristol City Council) and to those parties who have made representations about the Orders or the Exchange Land Certificates that are to be the subject of the Inquiry.
- 1.2 The Programme Officer for the Inquiry will be Lynette Duncan. Her role will be to ensure that the administrative arrangements for the Inquiry work as smoothly as possible. The Programme Officer's contact details are.
- email – lynetteljdassoc@aol.com
 - Mobile No – 07855 649 904
 - Address – LJD Associates, 20 Anerley Close, Maidstone, Kent, ME16 0RR
- 1.3 Lynette will work under the Inspector's direction and act as the link between all the participants of the Inquiry and the Inspector. She will take no part in the Council's case – or indeed anyone's case. Her duties will include arranging the day to day programme of the Inquiry, co-ordinating the distribution and numbering of documents and maintaining the Library of Inquiry documents.
- 1.4 The website for the Inquiry is: <http://southbristolinkpublicinquiry.org>

2 Purpose Of The Public Inquiry

- 2.1 The purpose of the Public Inquiry is to enable the Inspector to gather evidence before making his report to the Secretary of State for Transport (and other Secretaries of State as appropriate insofar as the Exchange Land Certificates are concerned). In his report he will set out the evidence given to the Inquiry and recommend either that the Side Roads Order and the Compulsory Purchase Orders should be confirmed; or that they should be modified and confirmed; or that they should not be confirmed. He will also make recommendations concerning the Applications for Certificates under Section 19 of the Acquisition of Land Act 1981. The Secretaries of State will consider the Inspector's report before making their decisions.

- 2.2 Discussion about the merits of Government policy, matters of compensation and points of law are outside the scope of the Inquiry. But the application of Government Policy to the scheme promoted by the Council would be a relevant consideration.
- 2.3 The statutory tests that must be satisfied before the Side Roads Order can be confirmed are that:
- a) no highway shall be stopped up unless another reasonably convenient route is available or will be provided before the highway is stopped up.
 - b) the stopping up of a private means of access shall only be authorised if no access to the premises is reasonably required; or if another reasonably convenient means of access to the premises is available or will be provided.
- 2.4 Government policy on the compulsory purchase of property is a subject of Circular 06/2004 *Compulsory Purchase And The Criche! Down Rules*, published by the Office of the Deputy Prime Minister in 2004. There will be justification for making or confirming a Compulsory Purchase Order if each of the following tests are satisfied:
- a) there should be a compelling case in the public interest, and the purpose of acquisition should sufficiently justify interfering with the human rights of those with an interest in the land affected.
 - b) the acquiring authority should have a clear idea of how it intends to use the land it is proposing to acquire.
 - c) the acquiring authority should show that all the necessary resources are likely to be available to achieve the scheme purpose within a reasonable time-scale.
 - d) the acquiring authority 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.
- 2.5 Section 19 of the Acquisition of Land Act 1981 makes provision that insofar as a Compulsory Purchase Order authorises the purchase of any land forming part of a common, open space or fuel or field garden allotment, the Order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied:
- a) that there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attach to the land purchased, or that the land is being purchased in order to secure its preservation or improve its management.
 - b) that the land does not exceed 250 square yards in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public, and certifies accordingly.

If either of these tests are met, a Certificate can be issued confirming that the special parliamentary procedure need not apply.

- 2.6 The Inspector's report will address these issues and it will therefore assist the Inspector if evidence given to the Inquiry refers to the tests detailed above.

3 Procedure

- 3.1 The conduct of the Inquiry and the events leading up to it are set out in Statutory Rules: Highways (Inquiries Procedure) Rules 1994 and the Compulsory Purchase (Inquiries Procedure) Rules 2007.
- 3.2 Statutory objectors, and the promoter, have a right to appear at the Inquiry. The Inspector will allow others to appear at the Inquiry, in accordance with the Rules, to support or object to the scheme. Those who appear may question others who take a different view, and be questioned by them. This allows the evidence to be tested. The promoter may prepare "rebuttal" evidence in response to evidence given by objectors, and objectors may respond to that when giving their evidence at the Inquiry. All evidence should be relevant and not repetitious.
- 3.3 In summary, the order of appearing at the Inquiry will be first, the promoter; then, supporters of the Orders; then, objectors to the Orders. Details of the precise procedure to be followed at the Inquiry, within the general framework set out above, will be determined once the number of objectors and supporters who wish to appear has been established. At the end of their appearance, or towards the end of the Inquiry, each party may make a closing submission. The Rules establish that the promoter has the right of final reply.
- 3.4 Closing submissions do not contain new evidence. The purpose of a closing submission might be broadly to briefly summarise your case as it rests at the time of making the submission, to highlight any point on which you have been satisfied by those whose case you oppose and to identify in the cases of those you oppose, those aspects of their cases which you claim not to have been made out, and to make any legal submission associated with your case.
- 3.5 If any already decided case is referred to in your closing submission, full copies of the judgement must be provided with the closing submission. Closing submissions given toward the end of the Inquiry may be made in writing only, or in writing and orally. The same weight is given in either case. A copy of your submission should also be provided electronically. Details of format etc should be discussed with the Programme Officer.

4 Evidence

- 4.1 Evidence is commonly presented at Inquiries in the form of a written statement (known as a proof of evidence) to be read aloud by the witness. This is usually a text document of one or more pages as the witness chooses. It may be supported by volumes of Appendices and/or Figures. Relevant extracts from authoritative documents may also be submitted, and those often help the Inspector and the Secretaries of State in attributing weight to evidence.

- 4.2 If the proof of evidence is longer than 1500 words, a separate written summary must also be provided and it is that summary which is read out by the witness at the Inquiry. Alternatively, such evidence may be taken "as read". The Inspector will take into account the whole of that person's evidence, and the witness may be questioned on it all. Proofs of evidence should be sufficient to convey the whole of the witness's evidence (apart from rebuttal evidence) and there should be no need for any oral exposition of such evidence when the witness first appears.
- 4.3 Units of measurement in proofs and documents should be metric (with imperial equivalents in brackets if considered necessary). Documents should be A4 size (or A3 folded to A4) wherever possible. All documents submitted to the Inquiry will be placed in the Inquiry Library and will be open to public inspection.
- 4.4 The Library will also contain a number of Core Documents - details can be obtained from the Programme Officer. The relevant documents available to date can be seen on the Inquiry website at: <http://southbristolinkpublicinquiry.org/inquiry-documents/core-documents/>.
- 4.5 There is no need for the same document to be submitted several times over by different objectors. Objectors should therefore check if the document they wish to refer to is already on the Core Document list. Anything not on the list will need to be separately provided by the parties.
- 4.6 Appendices should be bound separately to the main proof. They should be paginated throughout and contain a list of the documents included, with page references, at the beginning of the bundle. Individual appendices should be divided with a projecting tab so that they can easily be navigated. An appendix need contain only those extracts that are relevant, not the whole document, but should always include the title page. The full document should, however, be available at the Inquiry.
- 4.7 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 Secretaries of State see the information the witness intends them to see.
- 4.8 All written material put to the Inquiry by parties who choose not to appear at the Inquiry will be considered by the Inspector when writing his report. In principle, greater weight is likely to be given to evidence which withstands testing under questioning at the Inquiry.
- 4.9 The promoter might choose to prepare written rebuttal evidence, in which it responds to points detailed in objectors' proofs of evidence or Inquiry statements. If so, the "rebutted party" should have the opportunity to consider that evidence before they appear at the Inquiry. The promoter should therefore ensure that its rebuttal evidence is delivered to the party in question at least 2 working days before the start of the Inquiry, that is, not later than 10:00 on Friday **4 July 2014**. Copies of all rebuttal evidence should be provided to the Inspector during the first morning of the Inquiry.
- 4.10 General advice on the preparation of evidence can be found on the Planning Portal website: <http://www.planningportal.gov.uk/planning/appeals/otherappealscasework/highwaytransport>

- 4.11 The published Notice of the Inquiry, dated 14 May 2014, indicates that anyone who is proposing any alternatives to the published proposals should submit sufficient information to enable such alternatives to be identified, by no later than **17 June 2014**. Information on any proposed alternatives submitted after this date may be disregarded.
- 4.12 The documents to be relied upon by each party should be numbered sequentially and given the prefix numbers which will be allocated by Lynette to indicate their source. (eg 1/1/1 refers to Objector number 1/witness number 1/document number 1). Parties should contact Lynette for guidance regarding the numbering of documents.
- 4.13 A minimum of **4 copies** of each document will be needed – 2 for the Inspector, 1 for the Council and one for the Inquiry Library. Wherever possible, documents should additionally be submitted in electronic form. The documents should be sent to the Programme Officer to arrive no later than **17 June 2014**.

5 Timetable

- 5.1 The Inquiry will open at 10:00 am on Tuesday 8 July 2014 at Armada House Conference & Events, Armada House, Telephone Avenue, Bristol, BS1 4BQ. It is scheduled to sit for 8 days, but this may vary once the detailed timetable has been prepared. The normal sitting times of the Inquiry will be 10.00 am to 5.00-5.30pm on Tuesdays to Thursdays; on Fridays the Inquiry sessions will start at 9.30am and will finish at mid-afternoon – around 3.00-3.30pm. The lunch period will normally be from about 1.00pm to 2.00pm and there will be short breaks each mid-morning and mid-afternoon (apart from Friday pm).
- 5.2 Lynette will co-ordinate the Inquiry programme. To this end she will send a Programming Form to all the Statutory and Non-Statutory Objectors and to anyone else who responded to the Notice of the Orders. The form will ask whether the recipient wishes to appear at the Inquiry and will request contact details, information on any proposed professional representation and an estimate of the time likely to be required to give evidence and to conduct cross-examination. It will also seek an indication of which Council witnesses are likely to be cross-examined by the objector or his/her advocate.
- 5.3 This information will assist in the efficient scheduling of the Inquiry timetable. The programming forms should be completed and returned to Lynette by **24 June 2014**.

David Wildsmith
INSPECTOR
16 May 2014