

THE HIGHWAYS ACT 1980

THE ACQUISITION OF LAND ACT 1981

THE DEVON COUNTY COUNCIL A380 SOUTH DEVON LINK ROAD
(KINGSKERSWELL BYPASS) COMPULSORY PURCHASE ORDER 2008

THE DEVON COUNTY COUNCIL (A380 SOUTH DEVON LINK ROAD
(SIDE ROADS ORDER) 2008

PUBLIC LOCAL INQUIRIES

**OPENING STATEMENT
on behalf of the
PROMOTING AUTHORITY
DEVON COUNTY COUNCIL**

(1) The promoting authority

1. The two Orders before the Inquiries were made by Devon County Council (i) as the highway authority for that part of the Scheme within its administrative area and also (ii) acting under an agreement with Torbay Council pursuant to an agreement under section 8 of the Highways Act 1980 in respect of that part of the scheme which lies within the administrative area of Torbay Council.¹ Accordingly, although DCC is the promoting authority for the Scheme, its promotion is on behalf of itself and Torbay Council. This is reflected also in the funding arrangements for the Scheme where the local contribution would be shared between the two authorities.²

¹ Section 8 provides for agreements to be made enabling one highway authority to exercise any functions of another; the agreement between DCC and Torbay BC provides for the Orders to be promoted by DCC on Torbay's behalf (CD1.5); the Orders themselves recite the agreement (CD.1.1 and CD1.2)

² DCC/P/2 paras 6.1.2-6.1.3, Table 1; DCC/A/2 Appendix 1.

(ii) The existing problems

2. The A380 is a National Primary Route forming part of the Strategic Road Network with the function of providing

*"the main road network for inter urban travel, strategic road based freight movement ... and for road based tourist travel"*³

It is also one of the eight Regionally Significant Routes in the emerging Regional Spatial Strategy with a function as one of the:

*"major transport corridors connecting the major urban areas within the region and ... the primary arteries for long-distance intra-regional freight and passenger traffic"*⁴

3. Between Penn Inn and Kerswell Gardens, the A380 is demonstrably failing to perform its transportation function reliably. It has long since reached its capacity with resulting severe congestion and unreliability in journey times for travellers. In consequence, there is extensive usage of unsuitable roads in the wider corridor by traffic seeking to bypass the A380. This poor performance is not confined to peak periods or high season, since the problems are manifest throughout the day and throughout the year⁵. This failure of performance has adverse economic consequences both in terms of perception of peripherality for Torbay and also as an actual deterrent to investment in the area. There are also adverse environmental consequences arising not only from the bottleneck of traffic on the A380 - particularly in respect of noise, air quality and accidents - but also the heavy use of unsuitable roads in the corridor.

4. The current problems, severe as they are, will be exacerbated by the strategic requirements for growth in the region, particularly in the Regionally Significant Cities and Towns of Torbay and Newton Abbot. Without effective action, the position will

³ DCC/P/3 para.2.1.2 to 2.1.3; Policy TR10 (CD3.2)

⁴ DCC/P/4 para 2.1.2; CD3.15 para 5.52.

⁵ DCC/P/4 Diagrams 1 and 2

worsen both on the A380 itself - with yet further increase in average delays⁶- and on the unsuitable parallel roads.⁷

The Scheme

5. The Scheme has evolved as a response to the widely recognised problems. Notwithstanding that some objectors question whether it is the right response, it is evident that those objectors for the most part acknowledge there is a need to address the problems, as is implicit of course with the Kingskerswell Alliance's suggested measures.
6. The Scheme would act as a bypass to Kingskerswell⁸. In addition, the primary title of the Scheme-the South Devon Link Road- reflects its function in providing a link to an appropriate standard between two SSCTs which are closely integrated in terms of their economies.⁹
7. The Scheme itself forms part of an integrated package of measures to which there is commitment in the Devon and Torbay Local Transport Plans¹⁰: as explained in the evidence, a number of those measures have already been implemented, some remain to be in the longer term, and some are dependent upon the Scheme for their implementation.
8. The Scheme is embodied in, and is consistent with, relevant policy. It is identified in RPG10 and the Structure Plan and it is protected by, and consistent with, the two Local Plans. It accords with emerging regional policy and with national policy. It forms part

⁶ DCC/P/4 Diagram 14

⁷ DCC/P/4 Table 27

⁸ Very few trips have an origin or destination in Kingskerswell: DCC/P/4 para 5.2.2

⁹ DCC/p/1 para 2.4

¹⁰ CD3.9 and CD3.11

of the approved Local Transport Plans and is a component of the Devon Economic Strategy and the Torbay Economic Regeneration Strategy¹¹.

9. The Scheme benefits from the grant of planning permission. Need for the Scheme was examined at the time of the grant of planning permission and its supporting Environmental Statement. Although need has been addressed in the DCC proofs of evidence where relevant, this is by way of confirmation that the need for the Scheme already addressed at the time of the grant of permission remains no less pressing.

10. The Scheme has not materially changed since the grant of planning permission.¹² It is inevitable that there will be changes to the detail of the effects of the Scheme in circumstances where methodological advice may have altered or new data may become available in the period since the publication of the ES. Accordingly, the evidence from DCC before the Inquiry provides the most up to date material in respect of the Scheme and its effects and in the case of each DCC witness, where any relevant updating has occurred, it is explained in the proofs of evidence.

11. The Scheme would be effective in providing a route to a standard commensurate with its function. The road would be attractive for its purpose, thereby relieving unsuitable parallel roads¹³. The Scheme would benefit not only freight traffic and users of private cars, but also public transport - with telling support from the two providers, National Express¹⁴ and Stagecoach South West¹⁵- as well as Torbay Hospital¹⁶. There would be benefits in terms of noise, air quality, accidents and severance for the relieved stretch of Kingskerswell and for the economy of the area.

¹¹ DCC/P/5 Appendices 2 and 5

¹² There has been minor alteration in the provision for buses at Aller: DCC/P/3

¹³ DCC/P/4 Table 28

¹⁴ Rep 107

¹⁵ Rep 73

¹⁶ Rep 104

12. The Scheme's BCR of 7.46 confirms that the Scheme would be very good value for money¹⁷
13. Inevitably, any new road is likely to involve some adverse effects. In the case of the Scheme, these have been minimised as far as reasonably practicable. The Scheme incorporates extensive mitigation both through the process of route selection and from the application of specific measures such as extensive embankments and landscaping, ecological mitigation, a low noise road surface and restricted lighting. There are no objections from any body with statutory responsibilities for the environment.¹⁸ None of these effects are unacceptable - as indeed the grant of planning permission confirms.
14. In addition, where relevant, each DCC witness explains the assessments that have been carried out for the purposes of the MSBC process. This has been produced as part of the background since the MSBC will of course be subject to a separate process of decision making by the Secretary of State.

The Orders

15. The Orders to which the Inquiries relate to are required to implement the Scheme.
16. However, Supplementary Orders have now been made for the following purposes:
 - (i) providing additional Exchange Land to that provided in the CPO before the Inquiries; the Exchange Land required in the CPO would remain but would be augmented by the additional Exchange Land and an additional PMA. At present, the application under section 19 of the Acquisition of Land Act 1981 is not before the Inquiries;

¹⁷ DCC/P/4 Table 37; 7.41 if noise and air quality are included (DCC/REB/9 para 6.8)

¹⁸ Including any relevant national body: Natural England, English Heritage and the Environment Agency.

- (ii) varying arrangements for Footpath 45 as it passes through Sainsbury's land;
- (iii) varying arrangements for the proposed culvert at Keyberry Mill so as to provide better protection for a statutory undertaker;
- (iv) securing land adjacent to the Barn Own Inn, which has been recently identified owned by an objector; and
- (v) providing two additional PMAs.

17. The consequential modifications to the Orders to which the Inquiries relate, together with other minor proposed modifications, are explained in separate documents submitted to the Inquiries.¹⁹

Statutory Criteria

18. The DCC evidence before the Inquiries addresses the statutory criteria set out in the Pre Inquiry Meeting Notes.²⁰ In turn, this is addressed principally at:

- 1. Statutory undertakers (in SRO): DCC/P/3 para 7.7.1.1 – 7.7.1.3.
- 2. Reasonably convenient alternative routes for highways: DCC/P/3 para 12.19.
- 3. Reasonably convenient alternative routes, or absence of requirement, for private means of access: DCC/A/3 Annex 1; DCC/P/3 para 12.19.
- 4. Human rights: DCC/P/1 paras 10.1-10.4, 12.6.
- 5. Clear idea of use of land: DCC/P/3.
- 6. Necessary resources within a reasonable timescale: DCC/P/1 para 8.4; DCC/P/2 paras 6.1.4, 7.1.2-7.1.6.
- 7. Land required immediately for the purpose of acquisition: DCC/P/3²¹
- 8. Public benefit outweighing private loss: DCC/P/1 paras 10.4 and 12.6.

¹⁹ DCC/INQ/4 and DCC/INQ/5

²⁰ INSP/2 paras. 9.1.1 – 9.1.8.

²¹ Subject to the proposed modifications resulting from the supplementary Orders

Objections

19. There are 17 statutory objections remaining ²²(4 having been withdrawn) and 59 non-statutory objections. Each objection is responded to in the DCC proofs of evidence, save where the objection was not received in time for such a response to be incorporated. DCC has produced a matrix of responses which identifies where the objection is responded to, including reference to DCC's separate rebuttals. This will be supplemented to address objections received late in the process. The current draft of this matrix is DCC/INQ/3. Each objector's proof has been separately responded to by DCC (in separate rebuttals) and that response in turn identifies where the points in the objection letter have been addressed.
20. There are 72 supporters.
21. There are no new alternative routes identified in accordance with the Secretary of State's direction dated 7 May 2009. CPRE has referred to the Eastern Route in its letter dated 12 June 2009²³ but that has been the subject of examination in the past and although it is responded to in the DCC main evidence and its response to CPRE²⁴, it has not been considered necessary to publicise it further. The Alliance proposals have been thoroughly examined both in DCC's main evidence and in a further specific response to the Alliance's proofs of evidence²⁵. Some elements of the Alliance proposals comprise part of DCC's integrated package in any event. Otherwise, the Alliance proposals do not meet the objectives for the Scheme. They raise safety issues and they would worsen the current air quality in Kingskerwell, ensuring that it would remain as an AQMA. The Alliance proposals are not ones which could be responsibly promoted by DCC.

²³ Technically now "remaining objections": sections 13A(1), 13(b) and 12(2) of the Acquisition of Land Act 1981 (CD 4.11).

²³ OBJ/CPRE(53)/P/21.

²⁴ DCC/REB/8

²⁵ DCC/REB/5

22. There has been dialogue with statutory and other objectors which is expected to continue during the Inquiries with a view to resolving as many objections as reasonably possible.

Andrew Tait QC

Jeremy Phillips

7 July 2009