



A380 South Devon Link Road (Kingskerswell Bypass)

Public Inquiry

**Devon County Council's Response to
Michael Pennington representing Hall & Woodhouse Limited
(Obj 10): OBJ/HWL(10)/P/1 and (OBJ/HWL/(10)/A/1)**

**Response by Michael Smith
with a contribution by Richard Perkins**

1.0 Introduction

1.1 This Response (**DCC/REB/10**) to the Proof of Evidence of Michael Pennington on behalf of Hall & Woodhouse Limited (**OBJ/HWL(10)/P/1**) including the report of LGPS Resources (**OBJ/HWL(10)/A/1**) has been prepared by Michael Smith with a contribution by Richard Perkins.

1.2 Michael Pennington, in his letter dated 6th November 2008, objected to the Compulsory Purchase Order and the Side Roads Order on a number of grounds. These and the responses are summarised below:

Failure to include all necessary land. This is addressed in paragraph 11.1.25 of Michael Smith's Proof of Evidence (**DCC/P/3**). Since completion of **DCC/P/3** and receipt of **OBJ/HWL(10)/P/1** it has become apparent that an area of land identified in **OBJ/HWL(10)/P/1** is owned by the objector. Devon County Council has resolved to include the triangular area of land within a Supplementary Compulsory Purchase Order. This point is further addressed in section 2 of this response.

No discussion on reinstatement of existing road. This is addressed in paragraph 11.1.26 of Michael Smith's Proof of Evidence (**DCC/P/3**).

No details of alternative access to the Barn Owl. This is addressed in paragraph 11.1.27 of Michael Smith's Proof of Evidence (**DCC/P/3**).

No impartial assessment of noise impact and mitigation works. This is addressed in paragraphs 11.5.5 and 11.5.7 to 11.5.11 of Rosalyn Guard's Proof of Evidence (**DCC/P/6**).

No proposed alternative signage. This is addressed in paragraph 11.1.27.1 of Michael Smith's Proof of Evidence (**DCC/P/3**). Since completion of **DCC/P/3** and receipt of **OBJ/HWL(10)/P/1** Devon County Council has reviewed the signing provision. This is dealt with in section 6 below.

No discussion on proposed lighting. This is addressed in paragraph 11.1.28 of Michael Smith's Proof of Evidence (**DCC/P/3**). This part of the objection stated to be withdrawn at para 3.1.8.

No proposals on footpath access. This is addressed in paragraph 11.1.29 of Michael Smith's Proof of Evidence (**DCC/P/3**).

No proposals for temporary access during construction. This is addressed in paragraph 11.1.30 of Michael Smith's Proof of Evidence (**DCC/P/3**).

No revised access arrangements for stopped up gate reference 1s on site plan 3. This is addressed in paragraph 11.1.31 of Michael Smith's Proof of Evidence (**DCC/P/3**).

No proposals for alternative car parking arrangements. This is addressed in paragraph 11.1.32 of Michael Smith's Proof of Evidence (**DCC/P/3**). Further points are addressed below in section 4.

1.3 In addition, no thorough site and route selection process and no impartial assessment of the environmental impact are referred to. In his proof of evidence at paragraphs 3.1.1 and 3.1.5 Michael Pennington states that the objection is withdrawn regarding these issues.

1.4 Michael Pennington on behalf of Hall & Woodhouse Limited has stated that although his client is generally supportive of the proposals there are a number of detailed issues to be resolved including: that the highway authority has not included within the CPO land necessary for the Scheme which is owned by Hall & Woodhouse; the acceptability of landscape and access arrangements; the acceptability of proposed

alternative access to the Barn Owl; the acceptability of proposed noise and landscape mitigation works; the acceptability of alternative signage arrangements; the acceptability of footpath access; the acceptability of access to the Barn Owl during construction of the works.

- 1.5 Michael Pennington's proof of evidence refers to a report prepared by LGPS Resources (**OBJ/HWL(10)/A/1**). This response refers to sections in this evidence as well as to sections within Michael Pennington's evidence.

2.0 Land Necessary to Construct the Scheme

- 2.1 In paragraph 3.1.2 of Michael Pennington's proof of evidence (**OBJ/HWL(10)/P/1**) and in section A of the proof of evidence of LGPS Resources (**OBJ/HWL(10)/A/1**), evidence is presented that indicates that there is an area of land necessary for the Scheme which was not included in the Compulsory Purchase Order made on 12th September 2008.
- 2.2 Devon County Council accepts that the small triangle of land referred to in section A of the proof of evidence of LGPS Resources is necessary for the Scheme. It was not included in the Compulsory Purchase Order made on 12th September 2008 because it was believed that the area formed highway land. Correspondence with Hall & Woodhouse Limited, shown attached in Appendix 1, did not reveal the triangle of land to be not 'highway land'.
- 2.3 Following the discussions held on 12th June 2009 referred to in paragraph 1.2 of the proof of evidence of LGPS Resources, Devon County Council has resolved to include the triangular area of land within a Supplementary Compulsory Purchase Order.

3.0 Side Roads Order – Aller Road and Other Alterations Sheet 3

- 3.1 In Michael Pennington's evidence paragraph 3.1.3 a) 1st bullet and in section B of the proof of evidence of LGPS Resources, a question is raised concerning the status of the area of public highway to be stopped up. The Side Roads Order Site Plan 3 Inset shows new highway 'A' and its highway boundary to be coincident with the existing highway boundary. Devon County Council confirms that the land arrowed 'Area to remain as public highway as confirmed by the highway authority at the meeting on 12th June 2009' shown in the figure on page 5 of the report of LGPS Resources would be highway land. See also paragraph 3.5 below.
- 3.2 Paragraph 3.1.3 a) 2nd bullet: Cross-section plans were provided on 26th June 2009.
- 3.3 Paragraph 3.1.3 a) 3rd bullet: Details of the proposed sign would be subject to a planning application. As yet no details have been submitted and therefore Devon County Council cannot comment.
- 3.4 Paragraph 3.1.3 a) 4th bullet: Devon County Council would have no objection to Hall & Woodhouse maintaining the highway verge adjacent to and comprising the visibility splays of the access into the Barn Owl.
- 3.5 On page 5 of the report of LGPS Resources, text in italics states that *'the owners of the inn would be able to use this public highway to access the field boundary adjacent to it'*. This area of highway is shown on the Scheme Plan (**CD 1.6**) to be planted stating: *"Dense shrubs along crest and woodland planting on outer slope"*. In DCC/P/6 at paragraph 11.5.8 it states *"This planting does not offer benefits to other properties so could be re-considered..."* Devon County Council has agreed to investigate the possibility of retaining part of the existing abandoned carriageway, on which it would consider relinquishing highway rights such that it might then be subject to an agreement with Hall and Woodhouse.

4.0 Improved Lengths of Highway - Side Roads Order – Aller Road and Other Alterations Site Plan 3 Inset

- 4.1 Response to Michael Pennington's evidence, paragraph 3.1.4, paragraph a):
- 1st Bullet: The proposed access would provide for the same vehicle movements as currently exist. The access arrangements would be discussed with Hall and Woodhouse during detailed design.
 - 2nd Bullet: The treatment of highway land adjacent to the entrance to the barn Owl is shown on the Scheme Plan **(CD 1.6)**. There would be no interference with visibility splays. The landscape planting would be maintained by the highway authority.
- 4.2 In section C of the report of LGPS Resources, it is stated that the area of cross hatching is a mix of public highway and private ownership. Attached at Appendix 2 is an extract from the Side Road Order Site Plan 3 Inset overlaid on the land registry drawing included in Michael Pennington's proof of evidence. The area of 'Highway to be Improved' indicated by the cross hatching overlays a tiny area of land within the title of Hall and Woodhouse. This area will be omitted from the Side Road Order.

Temporary Car Parking

- 4.3 In section C of the report of LGPS Resources, it is suggested that a temporary car park be constructed in the field to the north-east of the Barn Owl. The highway authority has indicated that 'in principle' the suggestion would be acceptable on highway grounds, subject to a detailed submission. The issue of payment for such works would be a matter of compensation. The need to obtain the necessary statutory approvals would fall to the land owner.
- 4.4 In section 4 at paragraph 4.2, 8th bullet (page 11) the report of LGPS Resources states that the temporary car park should be constructed by the highway authority as part of the accommodation works. Devon County Council does not accept this point. The Scheme does not affect the parking provision for the Barn Owl. Further, Devon County Council does not have the statutory powers to construct such works as part of the Scheme.

5.0 Noise (Contribution by Richard Perkins)

- 5.1 Michael Pennington's evidence, paragraph 3.1.6, paragraph a)
- 1st Bullet: Cross-sections were provided on 26th June 2009.
 - 2nd Bullet: Consideration of the existing noise levels at the Barn Owl Inn, and the future levels with and without the Scheme have been made in Richard Perkins' Proof of Evidence **(DCC/P/9)**.
- 5.2 Noise assessments for road schemes are made by way of predictions using the methodology described in Chapter 4.3 of Richard Perkins' Proof of Evidence **(DCC/P/9)**. The design of the Scheme has included noise and vibration mitigation measures wherever possible. In the area adjacent to the Barn Owl Inn, this has included the vertical and horizontal alignment of the Scheme and the provision of a low noise road surface. The proposed A380 alignment is also partially screened from this location by the intervening topography.

6.0 Signage

- 6.1 Michael Pennington's evidence, paragraph 3.1.7, paragraph b)
- 1st Bullet: Devon County Council has agreed to provide advance direction tourist signs on the proposed A380, mounted separately from other signs. In

addition, Devon County Council will provide tourist signs on the local direction signs where necessary at Aller junction. The signs would replace the existing tourist signs and therefore would include the Bickley Mill Inn as well as the Barn Owl Inn.

- 2nd Bullet: Agreed.

Right to Passing Trade

- 6.2 In section E of the report of LGPS Resources, it is stated that there may be a significant loss in passing trade if the inn is not conspicuously signed as part of the new road traffic signing package.
- 6.3 Any loss in passing trade is a matter dealt with under the Compensation Code.

7.0 Public Transport, Pedestrian And Cyclist Amenity And Links

- 7.1 Michael Pennington's evidence, paragraph 3.1.9, paragraph a)

- 1st Bullet: See paragraph 7.2 below.

- 7.2 In section E of the report of LGPS Resources, it is stated that the highway authority agreed to provide pedestrian and cyclist signing along the route also known as Aller Road that runs to the south of the Barn Owl. Devon County Council does agree that such additional signing would be provided.

8.0 Temporary Signing During Construction

- 8.1 Michael Pennington's evidence, paragraph 3.1.10, paragraph a)

- 1st Bullet: Temporary car parking - see section 4 above.
- 2nd Bullet: Devon County Council confirms that temporary signing of access routes to the Barn Owl during construction of the Scheme would be provided to the extent consistent with the agreed permanent signing provision. Access to the Barn Owl would be maintained at all times during the construction period.

Statutory Referencing


IMPORTANT

THIS COMMUNICATION AFFECTS YOUR PROPERTY

HIGHWAYS ACT 1980 – SECTION 297

To: Hall & Woodhouse Limited

On behalf of Devon County Council and by virtue of the power conferred by Section 297 of the Highways Act 1980, I HEREBY REQUIRE YOU to state in writing the nature of your interest in the land within the district of Teignbridge, Devon:-


Plans(s)	Description	Area
TUE43444/LO/039	Part of fields on the north west of the A380 Torquay Road 	3711 square metres (coloured pink)


and the name and address of any person known to you as having an interest in such premises whether as freeholder, mortgagee, lessee or otherwise. A copy of the section of the above Act is set out overleaf for your information.

The information required is indicated in the form below and I shall be glad if you will complete this form as far as you are able to do so and return it to me in the enclosed stamped addressed envelope by Monday 20 August 2007.


An additional copy of this notice and plan(s) is enclosed for your retention.

Dated this 27th July 2007.


ROGER GASH
County Solicitor
County Hall
Exeter
EX2 4QD

 W&W ARE THE FREEHOLD OWNERS OF THE LAND CROSS-HATCHED BLUE ON THE ATTACHED PLAN ONLY.



	
EXETER OFFICE	No. 14469
DATED - 7 AUG 2007	
PLAN NUMBER	TUE43444A
FILE REF.	
ACTION BY	

PARTICULARS REQUIRED

1 Full name and address of the freehold owner(s)

HALL & WOODHOUSE LTD, THE BREWERY,
BLANDFORD ST. MARY, NORFOLK DT11 9LJ - NB H&W
ONLY OWN THE CAMP CROSS - HATCHED BLUE ON THE ATTACHED PLAN

2 Full name and address of leasehold owner(s) (if any)

NONE

3 Full name(s) of occupier(s) over the age of 18 years (please state whether owner/occupier, monthly tenant, weekly tenant, licensee etc)

THE FOLLOWING LIVE AT THE NB PURSUANT TO THEIR TERMS OF EMPLOYMENT WITH HALL & WOODHOUSE: PAUL & AMANDA DAVIES; MARC MORLEY; KERRY LOOPER; LEE BARDLEY; HANNAH PALMER; DAN MANFIELD; CRISTIAN BUDAIA; CATHERINE WOSLEY

4 If the property is under contract for sale, full name and address of purchaser(s)

N/A

5 Full name and address of mortgagee(s) or legal chargee(s) (if any)

NONE

Dated 3/8/2007 Signature 

Power of highway authority or council to require information as to ownership of land

Section 297 of the Highways Act 1980

- 297.-(1) A highway authority or a council may, for the purpose of enabling them to discharge or exercise any of their functions under this Act, require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholders, mortgagee, lessee or otherwise.
- (2) Any person who, having been required in pursuance of this section to give any information, fails to give that information is guilty of an offence and liable to a fine not exceeding £400 (level 3 on the standard scale).
- (3) Any person who, having been so required to give any information, knowingly makes any mis-statement in respect thereof is guilty of an offence and liable --
- (a) on summary conviction to a fine not exceeding the prescribed sum within the meaning of Section 32(9) of the Magistrates' Courts Act 1980 (£1,000, or other such sum as may be fixed by order under Section 143(1) of that Act); or
- (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine, or both.

20/07/07



Edward Chorlton
 Director of Environment, Economy and Culture



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DRAWING TITLE

**A380 SOUTH DEVON LINK ROAD
 KINGSKERSWELL BYPASS
 LAND OWNERSHIP - PLOT No. 39**
 Owner - Hall & Woodhouse Ltd
 Supplier - Hall & Woodhouse Ltd

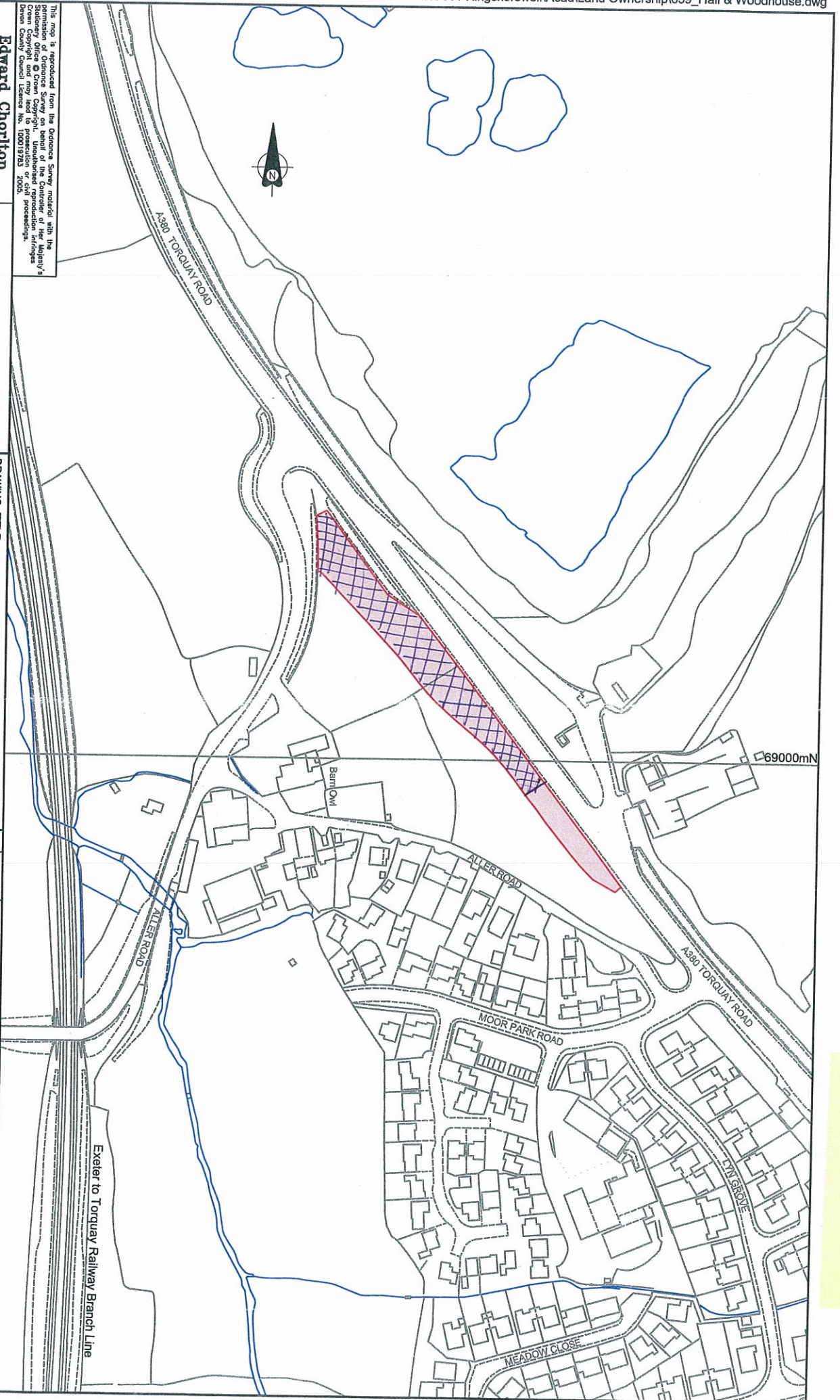
No. Date

Revisions

Date	Designed	TJ
July 07	Produced	AB
1/2500	Checked	RH
	Approved	MS

Drawing Number
TUE43444/LO/039

File: T:\HEX\43444-Kingskerswell\Acad\Land Ownership\039_Hall & Woodhouse.dwg



Side Road Order and Hall and Woodhouse Title Land

