



A380 South Devon Link Road (Kingskerswell Bypass)

Public Inquiry

**Devon County Council's Response to
Proof of Evidence of Mr Paul H Stephens**

(Obj16): OBJ/STEP(16)/P/1

Response by Michael Smith

with contributions by David Black and Andrew McCarthy

1.0 Introduction

- 1.1 This Rebuttal **(DCC/REB/4)** to the Proof of Evidence of Mr Paul H Stephens **(OBJ/STEP(16)/P/1)** has been prepared by Michael Smith with contributions by David Black and Andrew McCarthy.
- 1.2 Mr Stephens is represented by Harold Michelmore & Co. In their letter dated 7th November 2008 they objected to the Scheme stating that Mr Stephens would have difficulty relocating his business. This issue is addressed in paragraph 11.1.45 of Michael Smith's Proof of Evidence **(DCC/P/3)**.
- 1.3 In addition it is stated that there would be no relief to other local roads, speeding and easier movement through towns and villages would be encouraged and that narrower, rather than wider, roads should be provided. Table 28 of David Black's Proof of Evidence **(DCC/P/4)** demonstrates the reduction in traffic on local roads that would occur if the Scheme were built. The traffic effects of the Scheme are dealt with in **DCC/P/4**.
- 1.4 In his proof **(OBJ/STEP(16)/P/1)**, Mr Stephens expresses concern for the effect of the Scheme on his business; he believes that the bypass will not provide relief to the village and that the signals at Penn Inn and Jurys Corner are the reasons for the bottleneck; and he has concern for the loss of flora.

2.0 Effect on Business

- 2.1 This is a matter of compensation and the tenancy arrangements Mr Stephens has with the landowners.
- 2.2 Mr Stephens has raised his concern with Torbay Council, who has offered to try and assist Mr Stephens to relocate. A copy of letters from Torbay Council to Mr Stephens dated 12th March 2009 and 22nd April 2009 is attached at Appendix 1.

3.0 Relief for the Village (Contribution by David Black)

- 3.1 In his letter Mr Stephens states that;
"traffic passing through the village which the by-pass is designed to relieve is able to continue at the same or greater speed through the village".
- 3.2 As part of the Scheme, traffic calming measures will be implemented within the village. This will reduce speeds through the village and make it more attractive to non vehicular users. This is outlined in section 13, Table 40, of David Black's Traffic and Economics evidence **(DCC/P/4)**, which states:
"The removal of traffic from the A380 through Kingskerswell will allow greater road space and priority to be given to vulnerable road users on the existing route".
- 3.3 These measures will also be extended to parallel routes, from which considerable traffic will be removed with the Scheme. This is also outlined in Table 40.
"The removal of traffic from the parallel roads will enable traffic calming measures to be introduced. The combined effect of slower speeds and lower volumes of traffic will improve safety for pedestrians and cyclists".

4.0 The Signals at Penn Inn and Jurys Corner (Contribution by David Black)

- 4.1 Under section 9 of Mr Stephens' evidence he states that:
"the real reason that traffic builds up in Kingskerswell in both directions is the bottleneck provided by Penn Inn Roundabout and the traffic lights at the Sloop Inn (or Jurys Corner)"

- 4.2 The effect of improvements to the junctions at Penn Inn and Jurys Corner are addressed in Section 15.2 of David Black's Traffic and Economics Evidence (**DCC/P/4**), which states:

In relation to Jurys Corner: *"Options for providing additional capacity have been considered and ruled out due to numerous constraints at the junction."*

In relation to Penn Inn: *"Any improvement to Penn Inn junction would yield few benefits without increasing the capacity for traffic exiting the junction to the South."*

5.0 The Bottleneck at Torquay (Contribution by David Black)

- 5.1 Under section 9 of Mr Stephens' evidence he states that:

"when traffic gets to Torquay it will hit a bottleneck just as it does at Penn Inn Roundabout"

- 5.2 Riviera Way is currently operating well within capacity for a road of its standard. As highlighted in **DCC/P/4** section 15.3, both Riviera Way and the Torquay Ring Road are:

"high capacity roads capable of accommodating future year flows with and without the Scheme" (DCC/P/4 paragraph 15.3.7).

- 5.3 This is further highlighted in **DCC/P/4** Table 59 which shows current AADT flows on Riviera Way are in the region of 30,000 with the road capable of accommodating an AADT of some 70,000.

6.0 Loss of wildlife habitat & wildflower rich habitats (Contribution by Andrew McCarthy)

- 6.1 CPO plot 08/75 comprises some 8ha of pasture land and part of a footpath to Parsons Bridge, west of the Exeter to Torquay branch line railway, and north-west of the A380 Hamelin Way.

- 6.2 Mr Stephens makes reference to the loss of a haven for wildlife in the overgrown meadow affected by CPO plot 08/75.

- 6.3 Whilst this area contains no especially species-rich habitat-types, it is utilised by various protected species including bats and birds. Effects upon noteworthy fauna are addressed in Chapter 5 (Species affected by the Scheme) of Andrew McCarthy's Proof of Evidence (**DCC/P/8**), in which it is acknowledged that without mitigation the Scheme would result in substantial impacts on wildlife. Substantial measures will be put in place to conserve populations of important species, for example Lesser horseshoe bats, as well as habitat creation including extensive woodland and hedgerow planting, hedgerow translocation, and other habitat creation measures including species-rich grassland establishment to help offset negative effects. Mr McCarthy's Proof of Evidence also highlights the nature conservation benefits that will accrue as a consequence of conservation management offsite at Labrador Bay and elsewhere. Such measures will deliver substantial conservation gains for nationally rare species such as Cirl bunting, farmland birds and bats and in combination with mitigation measures, will reduce impacts to levels acceptable to Natural England.

- 6.4 CPO plot 08/73n affects land used as a timber yard south-west of the Exeter to Torquay branch line railway and north-west of the A380 Hamelin Way.

- 6.5 Mr Stephens makes specific reference to loss of an embankment on the northern side of the A380 Hamelin Way, which supports a rich flora, including a flourishing orchid population. It is accepted that the A380 embankments are botanically quite species-rich and support orchid stands in places. As stated in **DCC/P/8** at paragraph 4.7.3:

“moderately species-rich grasslands of anthropogenic origin have developed on the Torbay Ring Road embankments at the southern end of the Scheme, over ballast or spoil. Such habitats support stands of orchids locally.”

- 6.6 In mitigation, approximately 3.6ha of new species-rich grassland will be created on cutting slopes. Establishment will involve use of conservation best practice, including planting over nutrient poor sub-soil, use of thinly sown, low-growing, nurse grass species to encourage colonisation by local flora and collection of topsoil from existing grassland along Torbay Ring Road embankments. Wildflower seed mixes of non-local origin will not be used and, judging from the local species-richness of grassland along Torbay Ring Road, such measures are expected to be successful in maintaining local floristic diversity. By Year 15, once new species-rich grassland has established in cuttings the overall effect on grasslands in this area is expected to be Permanent Slight Adverse.

Appendix 1

Letters from Torbay Council to Mr Stephens dated 12th March 2009 and 22nd April



Please reply to: Chris Bouchard, Estates
Principal Valuer, Torbay Development Agency,
First Floor, Tor Hill House, Union Street,
Torquay, TQ2 5QW

Mr P H Stephens
37 Vansittart Road
TORQUAY
TQ2 5BW

My Ref: CB / Misc219
Your Ref:
Telephone: 01803 207920
Fax: 01803 207921
E-mail: Chris.Bouchard@torbay.gov.uk
Website: www.torbay.gov.uk
Date: 12 March 2009

SUBJECT TO CONTRACT
WITHOUT PREJUDICE

Enclosure to SD.

Dear Mr. Stephens,

RE: SOUTH DEVON LINK ROAD SCHEME – LAND ADJOINING TIMBER YARD

I refer to your letter dated 24/25 February concerning the above.

I note your view that you have some claim on the land shown edged red on plan EM1948. Whilst I can understand your wish to protect your interest I do not believe that a claim to the Land Registry for adverse possession would succeed.

When we first met on site in October 2007 you mentioned that you had been using the land for the previous 14 years. It is my understanding that for a claim to the Land Registry for adverse possession to succeed the applicant needs to show that they had excluded all others from using the land for 12 years prior to 13 October 2003, which is the date the Land Registration Act 2002 came into force. As such I do not believe that you could show sufficient continuous exclusive possession of the land.

As previously mentioned Devon County Council granted a licence allowing the land to be used for keeping bees, which commenced on 01 June 1997. I have spoken to the surveyor who worked for the County Council at the time who has confirmed that the land was used for such a use. Also, as mentioned in my letter dated 06 October 2008, I have spoken to the person who was granted the licence who has confirmed that he used the land for more than 2 years. I therefore believe that a claim for adverse possession would fail since it was used by another person only 10-12 years ago. The land is also registered to the Council at the Land Registry under title DN150971.

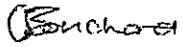
As previously mentioned I am happy to work with you to try to find alternative premises for your business. We have not, as yet, had any success but would again ask whether there is any Council-owned land within the Bay, which you feel may be suitable. I can then check to see whether this would be acceptable from the Council's point of view, as landowner.

Schools and services for children and young people • social care and housing • recycling and waste disposal • museums, leisure, libraries, arts and theatre • consumer protection and licensing • transport, roads, clean streets and town planning • tourism, harbours and economic regeneration

If you require this in a different format or language please contact me.

Whilst I can't tell you what to do I would respectfully suggest that you may want consult a solicitor about the adverse possession issue and I look forward to hearing from you soon.

Yours sincerely



Chris Bouchard

Estates Principal Valuer

Torbay Development Agency



Please reply to: Chris Bouchard, Estates
Principal Valuer, Torbay Development Agency,
First Floor, Tor Hill House, Union Street,
Torquay, TQ2 5QW

Mr P H Stephens
37 Vansittart Road
TORQUAY
TQ2 5BW

My Ref: CB / Misc219

Your Ref:

Telephone: 01803 207920

Fax: 01803 207921

E-mail: Chris.Bouchard@torbay.gov.uk

Website: www.torbay.gov.uk

Date: 22 April 2009

SUBJECT TO CONTRACT
WITHOUT PREJUDICE

Dear Mr. Stephens,

RE: SOUTH DEVON LINK ROAD SCHEME – LAND ADJOINING TIMBER YARD

I refer to my letter dated 12 March concerning the above and understand that you spoke to one of my colleagues on 20 March saying that you would be in touch in due course.

I know from our previous discussions that you got 'a lot on your plate' at the moment but wonder if you have yet had the opportunity to consider this matter further.

Yours sincerely

Chris Bouchard *CBS*
Estates Principal Valuer
Torbay Development Agency

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