



**A380 South Devon Link Road (Kingskerswell Bypass)**

**Public Inquiry**

**Devon County Council's Response to  
Proof of Evidence of Michael J Tyrrell representing Philip Bright**

**(Obj 72): OBJ/BRIGHT(72)/P/1**

**Response by Michael Smith  
with a contribution by Peter Williams**

## 1.0 Introduction

- 1.1 This Rebuttal (**DCC/REB/14**) to the Proof of Evidence of Michael Tyrrell on behalf of Philip Bright (**OBJ/BRIGHT(72)/P/1**) has been prepared by Michael Smith with a contribution by Peter Williams.
- 1.2 Philip Bright, in his letter dated 4<sup>th</sup> November 2008, objected to the Scheme on a number of grounds. His letter, however, did not reach the Acquiring Authority until 23<sup>rd</sup> May 2009 and a response is not therefore provided in the main DCC proofs. During the intervening period, an exchange of letters and discussions took place between Parsons Brinckerhoff Limited and Michael Tyrrell on behalf of Philip Bright. Philip Bright refers to the discussions which have taken place in his letter dated 5<sup>th</sup> June, which is attached at Appendix 1.
- 1.3 The outstanding issues are referred to in the Proof of Evidence of Michael Tyrrell on behalf of Philip Bright (**OBJ/PB/P/1**) and relate to the adequacy of the proposed private means of access; the security and ownership of the access road; and the use of land required for the surface water lagoon.

## 2.0 Access

### Width of Access Track

- 2.1 Drawing number HEX43444A/SKC/865A, attached to Michael Tyrrell's proof, represents negotiations with Devon County Council, in order to make provision for the type of vehicles that Mr Bright states use the existing accesses and to provide a passing place immediately after the Yon Street junction bellmouth so that vehicle conflict does not occur on Yon Street. As shown on Drawing No. HEX43444A/SKC/865A, this width provides sufficient space for the envisaged vehicles to pass.
- 2.2 On page 3 of his proof of evidence, Michael Tyrrell refers to a need to provide additional footpath/cycle track access. This provision is unnecessary. The private means of access width at 3.5m, with local widening on each side to provide 5.5m, would provide sufficient width for a vehicle to safely pass pedestrians and cyclists. The 9m requested by Michael Tyrrell is unnecessary.

### Adoption

- 2.3 The private means of access would not be adopted by Devon County Council. A gate would be provided across the width of the access at the boundary of the highway and the private means of access, which would prevent indiscriminate parking.

### Security and Shared Use

- 2.4 The private means of access is shown on Site Plan 4 Inset of The Devon County Council (A380 South Devon Link Road (Kingskerswell Bypass) Classified Road) (Side Roads) Order 2009 (**CD 1.2**). Access labelled '6' would be shared with the adjacent owner, whose property boundary would need to be maintained from the access road; and with Devon County Council, because access is needed to maintain the attenuation pond and other drainage features and to gain access to the land to be managed in mitigation of the adverse effects of the Scheme on bats. This land lies to the south of Philip Bright's holding.

### Serving of Individual Fields

- 2.5 The private means of access into Philip Bright's land allows access to all 'land to the east of the proposed bypass'. Where required, individual gates would be provided from the private means of access into each of the separate fields comprising the 'land

to the east of the proposed bypass'. This arrangement is indicated on the Scheme Plan **(CD 1.6)**.

Sufficiency of Access (Contribution by Peter Williams)

2.6 At paragraphs 4.1.5 to 4.1.7 of **DCC/P/13** Peter Williams states that

*“the land use remains as previously recorded and no farm business relies on the availability of this land for continued viability. The land is used for seasonal horse grazing, though no horses grazed the land in 2008 due to water logging. As far as the access issue is concerned, I understand that negotiations have taken place between DCC and Mr Bright and that an enlarged field gateway is now to be provided. In my opinion this new gateway will ensure the land can continue to be farmed effectively.”*

**3.0 Restriction on use of Area of Land for Retention Pond**

3.1 On page 2 of his proof of evidence, Michael Tyrrell refers to the restricted use of the area of land required for the surface water lagoon.

3.2 An explanation of the need for the land by plot number is given below.

Plot 6/68: Land required for the proposed A380 between highway boundaries

Plot 6/68a and 6/68b: Land required permanently for the provision of the private means of access to the land to be managed in mitigation of the adverse effects of the Scheme on bats.

Plot 6/68c: Land required temporarily to construct the 'Cut off/Stopper bank', which is required as part of the Scheme drainage design.

Plot 6/68d: Land required for the construction of the 'Cut off/Stopper bank'.

Plot 6/68e: Land required permanently for the construction of the 'Manor Drive Drainage Channel', which is required as part of the Scheme drainage design.

Plot 6/68f: Land required as a right to construct and maintain the 'Manor Drive Drainage Channel'.

Plot 6/68g: Land required as a right to install a drainage pipe to outfall the attenuation pond into the 'Manor Drive Drainage Channel'.

Plot 6/68h: Land required temporarily to construct the earth banks of 'Attenuation Pond 2', which is required as part of the Scheme drainage design.

Plot 6/68j: Land required for the construction of the earth banks of 'Attenuation Pond 2'.

Plot 6/68k: Land required for the construction of the highway outfall chamber to 'Attenuation Pond 2'.

Plot 6/68l: Land required as a right to allow 'Attenuation Pond 2' to receive and store run-off for the design flood event.

Plot 6/68m: Land required as a right to install a drainage pipe to outfall the highway to the attenuation pond.

Plot 6/68n: Land required as a right of access to construct and maintain the attenuation pond and the 'Manor Drive Drainage Channel'.

Plot 6/68r: Land required as a right to construct and maintain the 'Manor Drive Drainage Channel'.

Plot 6/68t: Land required permanently for the provision of the private means of access to the land to be managed in mitigation of the adverse effects of the Scheme on bats.

- 3.3 Upon completion of the Scheme, Plots 6/68a, 6/68b and 6/68t would be permanently acquired and fenced as shown on the Scheme Plan **(CD 1.6)** and plot 6/68k would be permanently fenced in order to enclose the highway outfall.
- 3.4 It is not intended to fence any other plots, including plot 6/68e which would be permanently acquired for the construction of 'Manor Drive Drainage Channel'. However, the areas identified as 'rights' plots will necessarily restrict the use to which this land could be put following construction of the Scheme.

**Correspondence**

Re: plot 68

Mr Philip Bright  
Nurton House  
Brixham TQ 5 9QE

5<sup>TH</sup> June 2009

Dear Mr Smith.

Further to my letter of objection dated 4<sup>th</sup> November 2008, many of these objections have since that date been resolved, or are currently under discussion between yourselves.

However my greatest concern and one which has been from the outset, relates to the proposed access off Yon street to the larger area of land which lies to the East of the proposed bypass (approximately 18/20 acres) and although this proposed access has recently been much improved, it still remains our major concern, in that "to all intents and purposes" this area of land becomes "land locked" and is also situated some 100 feet inland from Yon Street, compared to our current access status which enjoys 5 direct individual accesses onto Edginswell Highway. While as the proposed access track/side road offers a very inferior means to gain access onto Yon Street, over a strip of land, not in our ownership and to which we have no control over, we feel very vulnerable. Also following our meeting dated 9<sup>th</sup> April 2009 we have learnt that not only D.C.C and an adjoining neighbour will have the use of this access, but it is further proposed or agreed to accommodate parking areas relating to the Yon Street Chapel, which proposals can only exacerbate an already and unwelcome access means to and from Colestray farm, this really does highlight our vulnerability and insecure situation which may deteriorate even further in future years.

Although we do not have a problem with access to and from Colestray farm land occasioned by D.C.C, or the use by our adjoining land owner, we do have serious concerns as to what may become a general and convenient use of this access track / side road area by other unauthorised persons and the fact that we will have no security or control over this area which could lead to various and unforeseen problems.

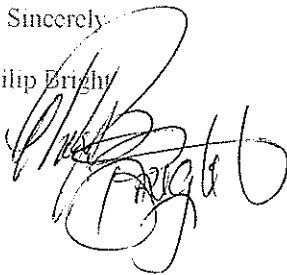
I would like to inform you that we do have personal experience of a similar situation regarding an access to Land Locked Ground ( not in the Teignbrige area) which is constantly fraught with problems.


May I put forward a suggestion, which would resolve our concerns completely over this access track/side road situation off Yon Street to our Land. That is if the compulsory perched land area between Yon Street and our boundary were to be transferred into our ownership and widened onto its Eastern side by 1.5 meter, with rights of ways that the authority consider necessary given to the D.C.C/adjoining neighbour and chapel parking etc, we would only require one gate on our existing boundary hedge opening onto the access track, with keys to D.C.C.

I am confident this would resolve all of our concerns and I/We would be pleased to withdraw all and any pending objections.

Yours Sincerely,

Mr Philip Bright



	
EXHIBIT OFFICE	18678
RECEIVED	08 JUN 09
JOB NUMBER	TWELFSURTA
FILE REF.	
ACTION BY	