



Report to the Secretary of State for Transport

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an Inspector appointed by the Secretary of State for Transport

Date: 12 December 2012

HIGHWAYS ACT 1980

ACQUISITION OF LAND ACT 1981

**THE BOROUGH OF BLACKBURN WITH DARWEN (A6078 FRECKLETON
STREET LINK ROAD) COMPULSORY PURCHASE ORDER 2012**

**THE BOROUGH OF BLACKBURN WITH DARWEN (A6078 FRECKLETON
STREET LINK ROAD) SIDE ROADS ORDER 2012**

Date of Inquiries: 25 & 26 September 2012.

Ref: DPI/M2372/12/13.

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CASE DETAILS

- **The Borough of Blackburn with Darwen (A6078 Freckleton Street Link Road) Compulsory Purchase Order 2012** (CPO), made under sections 239, 240, 246 and 250 of the Highways Act 1980 (as amended) (HA), would be confirmed under section 8 of Schedule 1 of the HA and section 13A of the Acquisition of Land Act 1981 (as amended)(ALA). This Order was first published on 19 January 2012 and there was 1 objection outstanding to it at the commencement of the associated local Inquiry. This Order would authorise Blackburn with Darwen Borough Council (BDBC) to purchase compulsorily land and new rights over land for the purposes described in the Order¹.
- **The Borough of Blackburn with Darwen (A6078 Freckleton Street Link Road) Side Roads Order 2012** (SRO), made under sections 14 and 125 of the HA, would be confirmed under section 8 of Schedule 1 of the HA. This Order was first published on 19 January 2012 and there was 1 objection outstanding to it at the commencement of the associated local Inquiry. This Order would authorise BDBC to improve lengths of highway, stop up lengths of highway, construct new highways and stop up private means of access to premises in accordance with the details set out in the schedules to the Order².

Summary of Recommendations: I recommend that the Orders are confirmed, subject to certain modifications.

1 PREAMBLE

1.1 I have been appointed³ by the Secretary of State for Transport (SoS) to conduct concurrent Inquiries for the purpose of hearing representations and objections concerning the proposals by the SoS, on application from BDBC, to confirm both the SRO and the CPO. I held those Inquiries at Blackburn Town Hall on 25 and 26 September 2012.

1.2 I carried out site visits on 24 and 26 September 2012.

Purpose of the Orders

1.3 The purpose of the Orders is to enable development to take place in accordance with planning permission Ref. 10/09/1054 granted on the 17

1 CD1.

2 CD3.

3 In accordance with section 7 of Schedule 1 of the Highways Act 1980 (as amended) and section 13A(3)(b) of the Acquisition of Land Act 1981 (as amended).

March 2011 by BDBC, for the Freckleton Street Link Road (FSLR) and associated highway and landscaping works, which together constitute 'the approved scheme'⁴. The FSLR would comprise a new highway that would link the Wainwright Bridge, to the south, with the junction of King Street/Montague Street, to the north, and would form part of the Blackburn Orbital Route.

- 1.4 As well as making provision for the new highway, the SRO sets out the details of the existing highways that adjoin the Order Land and are to be improved (HA s14). Other highways that will become redundant when the improvements are made or will disappear within the line of the FSLR are included in the SRO as highways to be stopped up (HA s14). The SRO also includes stopping up of the private means of access to certain premises (HA s125).
- 1.5 In general terms, the purpose of the proposed compulsory purchase order is to enable BDBC to acquire the rights (HA s250) and titles to land which it has identified as being necessary in order to: construct the approved scheme and improve existing associated highways (HA s239); carry out associated works authorised under section 14 of the HA (HA s240); and, mitigate adverse effects of the highways on the surroundings (HA s246).

Objections to the Orders

- 1.6 9 duly made objections were received; 5 against the SRO and 4 against the CPO. By the start of the Inquiries only the objections of the PTS Group Limited (PTS) had not been withdrawn⁵. I have not considered further the withdrawn objections.
- 1.7 PTS chose not to either appear or to be represented at the Inquiries. However, Blackburn with Darwen & Rural Civic Voice (CV) appeared at the Inquiry to object to the Orders for the first time.

Scope of this Report

- 1.8 This report contains a brief description of the site and its surroundings, the gist of the evidence presented and my conclusions and recommendations. Lists of inquiry appearances, documents and abbreviations used are attached as appendices. The written submissions of BDBC and CV were added to at the Inquiries through oral evidence.

2 DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 2.1 In broad terms the land subject to the Orders includes an area located

4 CD9.

5 PE3 appendices 6, 7 and 8.

between the Wainwright Bridge to the south and the junction of King Street/Montague Street to the north, and between Freckleton Street to the east and Byrom Street to the west. It contains a number of commercial premises, a Spiritualist church, part of a graveyard, land forming part of the River Blakewater and some vacant plots. The subject land is bounded in the east by primarily commercial and industrial premises that lie on the edge of the town centre. To the north there are commercial premises, with Blackburn University located to the northeast and residential properties to the northwest. To the west of the land is the fire station, commercial and industrial premises and other vacant land.

3 PROCEDURAL/LEGAL SUBMISSIONS

Statutory formalities

- 3.1 At the start of the Inquiries BDBC confirmed that all the statutory formalities had been complied with and this was accepted by all the other parties present.

Modifications

- 3.2 The Department for Transport (DfT) wrote to BDBC on 15 May 2012⁶ to identify a number of amendments that would need to be made to the Orders in the event that they are to be confirmed. BDBC confirmed its agreement to the proposed modifications by letter dated 6 June 2012⁷.
- 3.3 Furthermore, during the Inquiries BDBC confirmed that the area of St Peter Street which is identified by the SRO as being stopped up (area 3 on Side Roads Order Plan no. H-049764-01-001revI01) should be reduced. The section of St Peter Street from its junction with the eastern boundary of Byrom Street for a distance of 34 metres in a northeasterly direction should instead be identified within the SRO as 'highway to be improved'. This is necessary to ensure that a public right of way is maintained, in accordance with the approved scheme, between the new highway and Byrom Street. This correction is shown on plan no. H-049764-01-001revI02 and is incorporated within an amended draft of the SRO submitted by BDBC at the Inquiries⁸.
- 3.4 In addition, the following typographic corrections were identified in relation to the CPO:
- 1) paragraph 2(iv) - 'effect with the existence' should read 'effect which the existence'.
 - 2) Table 1 plots 22(a), 22(b), 23(a) and 23(b) - 'highway on the bed of

6 CD37.

7 CD38.

8 ID19.

the river' should read 'highway over the bed of the river'.

- 3.5 When considering suggested modifications to the Orders the subject of these Inquiries, I have had regard to the limitations of the Minister's powers of modification⁹. In my judgement, the proposed modifications would not make a substantial change to either of the Orders. Furthermore, it would be unlikely to prejudice the interests of anyone to take them into account and so I have. I will refer to the Orders modified accordingly as SROa and CPOa.

Blackburn with Darwen & Rural Civic Voice (CV)-new objection

- 3.6 Towards the end of the first day of the Inquiries a representative of CV submitted a written objection to the Orders for the first time. On the second day a representative of CV appeared in support of that objection. BDBC did not object to CV's late objections being heard. As it appeared that the objections may be relevant to the matters under consideration, I agreed to hear them, notwithstanding the late stage at which they were being submitted.

Legal submissions

- 3.7 Detailed legal submissions were made in opening by BDBC¹⁰. These were concerned with: the legal powers for making the Orders; Human Rights; and, the relevance of alternative schemes. Where necessary reference is made to them in the report.

4 THE CASE FOR BLACKBURN WITH DARWEN BOROUGH COUNCIL

The gist of the material points made by BDBC in its written and oral submissions.

4.1 The Compulsory Purchase Order 2012 (CPO)

The Public Interest

Need for the approved Scheme

- 4.1.1 The Council is committed to the FSLR, which is regarded as the missing link in Blackburn's Orbital Route, and that commitment is underpinned by the policy objectives of the Development Plan.

- 4.1.2 Policy T7 of the *Blackburn with Darwen Borough Local Plan* (LP) states

⁹ ODPM Circular 06/2004, Schedule 1 of the HA and section 14 of the ALA.

¹⁰ ID10.

that:

"... Around Blackburn Town Centre, an orbital route is being developed, based upon the existing highway network, to accommodate traffic movements which do not need to penetrate the town centre. Within the area bounded by this route, through traffic movements will be discouraged by the use of balanced environmental and traffic calming measures."

- 4.1.3 *The Blackburn with Darwen Borough Core Strategy (CS) identifies the Orbital Route as a means to address the capacity issues caused by congestion in the town centre. Further, it indicates that¹¹:*

"The Freckleton Street area, adjacent to Blackburn Town Centre, has been designated by the Northwest Regional Development Agency as a Strategic Regional Site with the following purposes:

- Capitalise upon the existing FE/HE academic presence in order to create closer links between education, skills and enterprise;*
- Capitalise upon its road and rail infrastructure to promote accessible knowledge based activity in order to diversify and upgrade the local economy in an area of regeneration need; and*
- Provide a high quality environment for investment and job growth."*

- 4.1.4 The Scheme is also consistent with the North West of England Regional Spatial Strategy to 2021 Policies, such as DP2 (promoting sustainable communities), DP5 (managing travel demand, reducing the need to travel and increasing accessibility, and W1 (strengthening the regional economy). The regional transport strategy objectives support regeneration and the reduction of social exclusion through integrated transport networks¹².

- 4.1.5 The approved scheme also accords with the aims of a series of other material spatial planning considerations, including published documents relevant to the use and development of land. These include: the Freckleton Street Masterplan Supplementary Planning Document¹³ (FSMP SPD); the Local Transport Plan 3 (LTP 3), which lists the FSLR as a "Major Transport Scheme"¹⁴; the Blackburn Town Centre Strategy 2010¹⁵; and, the National Planning Policy Framework (the Framework).

- 4.1.6 The FSMP SPD describes how a direct road link on a central alignment will help to significantly increase the current highway capacity for general movement around the town centre and will enable a restructuring of the existing minor road networks to facilitate the provision of improved pedestrian and cycle routes, bus-only lanes and on-street parking.

11 Paragraph 7.15.

12 CD10 p. 17.

13 CD11.

14 CD13 p. 34.

15 CD20 p. 6.

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- 4.1.7 The scheme is also consistent with the aims of the Framework. In particular, it would contribute positively in terms of:
- (a) the three dimensions to sustainable development;
 - (b) the need to proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
 - (c) the need to secure economic growth; and
 - (d) the need to promote opportunities for the use of sustainable transport modes.
- 4.1.8 The SoS did not call in planning application Ref. 10/09/1054. The Council's decision to grant planning permission was not challenged, and there has been no material change in circumstances such as to justify or require a fresh assessment of the planning merits of the Scheme. The Council is satisfied that the approved scheme is compliant with Development Plan policy, the FSMP SPD and the Framework.
- 4.1.9 The alignment of the FSLR requires the demolition of No. 53 King Street, a Grade II Listed Building. The heritage implications in relation to this were also resolved to the Council's satisfaction during the application process. Furthermore, the Council has demonstrated to the Secretary of State for Communities and Local Government that the public interest case for the FSLR is substantial and justifies demolition of No. 53, resulting in the grant of Listed Building Consent (LBC) for the demolition.
- 4.1.10 The approved Scheme is designed to address several existing problems in the area, including:
- (a) high levels of congestion in the locality that lead to significant delays to both private and public transport vehicles during peak periods;
 - (b) localised rat-running and town centre diversion, in particular through Mincing Lane/Cardwell Place/Barton Street;
 - (c) confusion amongst highway users associated with the one-way system and east-west severance across the existing north-south route;
 - (d) lack of continuity with the orbital and local distributor routes;
 - (e) unattractive linkages for pedestrians and cyclists to the town centre;
 - (f) lack of controlled pedestrian facilities and an unsafe pedestrian and cyclist environment;
 - (g) demand for development land and interest in developing vacant sites in the area is suppressed, due to congestion and the unattractiveness of the area; and
 - (h) local environmental degradation, including lack of good quality public open space and a fragmented public realm.
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4.1.11 The FSMP SPD makes clear that the FSLR, which would form part of the town centre orbital route, would improve accessibility to the area and that this factor, combined with existing development capacity make it an ideal location for a mix of uses. The masterplan sets out several principles, including¹⁶:

"A hierarchy of routes is proposed through the area building upon the existing network but also accommodating a new section of the Orbital Route. The preferred route follows a central alignment between Canterbury Street and Montague Street/King Street providing:

- *a new, more direct two-way route – linking between the new Wainwright Bridge and Montague Street;*
- *removal of the staggered junction at King Street and Montague Street;*
- *new development opportunities to both sides of the new route;*
- *dedicated bus lanes and stops;*
- *improved air quality and reduced congestion;*
- *significant improvement of the area's public realm and landscaping.*

Completion of the Orbital Route will allow rationalisation of other streets within the area. St Peter Street will be pedestrianised at its western boundary with the new orbital link road where pedestrian crossing points will be incorporated to improve the accessibility of the new Commercial and Public Sector Hub facilities. "Home Zone" style streets will be created to the south west of the area improving the location for residential accommodation, whilst also improving the area's safety and attractiveness..."

4.1.12 The FSLR would improve east-west connectivity, consistent with the objectives of the FSMP SPD. The junctions at King Street/ Montague Street and Canterbury Street would be more compact, so easing east-west connectivity and the quality pedestrian and cycle connections that would be created would improve access to and from the town centre. The FSLR would therefore bring important sustainable benefits to highway users.

4.1.13 There is also a compelling case in the public interest on regeneration grounds. The FSMP SPD identifies the importance of the FSLR and the Wainwright Bridge, which together are regarded as one of the main catalysts for regeneration in the area and "...key projects, on which many others depend..."¹⁷. This is also reflected in the Cathedral Quarter Supplementary Planning Document.

4.1.14 The process of transforming the area is underway. In particular, a number of sizeable areas of land have been acquired by the Council and cleared of their buildings. The FSLR is critical to transforming the image

16 CD11 p. 19 & 28.

17 CD11 p. 10 & 34.

and perception of the locality and will support the area as a flexible business location, offering a quality environment and key community facilities and services. The FSLR would provide visibility and access that would be suitable for employment uses, helping to deliver a step change in the quality of the area¹⁸.

"Along the central corridor the intention is to create a location which will attract a number of uses. The quality of the environment is fundamental to this aim. The highway and built form will be considered jointly, creating an attractive route at the heart of the Freckleton Street area. A high quality landscape scheme will also be implemented as part of the road proposals, accommodating distinctive street furniture, lighting and signage and boulevard trees designed to reinforce the urban form and layout. A new square will be positioned at the heart of the new route. A high quality parkland setting is also proposed to the south of Canterbury Street to enhance the setting of the bridge..."¹⁹

- 4.1.15 The FSLR would meet the regeneration objectives of the FSMP SPD, as considered in detail in the Regeneration Study 2011²⁰. The Study identified the benefits and issues arising in relation to the FSLR and its capacity to stimulate the comprehensive redevelopment sought in the FSMP SPD, which also aims to remove vacant and underused land and premises and improve the area's image and identity. The series of sites created by the alignment of the road would have immediate or medium term development potential, which the Council is committed to bring forward to the market as soon as possible for employment generating purposes. The Regeneration Study estimates that the FSLR has the potential to facilitate the creation of up to 450 jobs.
- 4.1.16 Therefore, consistent with the longstanding objectives of the Development Plan and the FSMP SPD, the FSLR would have a significant structural and catalytic impact on the local economy by unlocking a greater number and range of employment opportunities and improving the public realm and local townscape in the Masterplan area.
- 4.1.17 In addition, the FSLR would have a beneficial impact on Blackburn Town Centre, by completing the town centre orbital route. The reduction of through traffic accessing the town centre Conservation Areas as a result of the construction of the orbital route so far, has facilitated significant investment in the public realm in the town centre shopping streets and resulted in the enhancement of the historic town centre. The town centre is about to undergo further significant change and development, in particular in the nearby Cathedral Quarter and at the new Bus Station, and the Mall shopping centre has recently been revamped and the Youth Zone established. The FSLR would facilitate further such development and improvements.

18 CD28 p. 16.

19 CD11 p. 30.

20 CD28.

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- 4.1.18 The FSLR is therefore an essential component of the Town Centre Movement Strategy to remove through traffic from the town centre and would allow the delivery of improvements in public transport, town centre facilities and investment in the public realm, making the town centre more attractive, accessible and safe for the public.
- 4.1.19 A decision not to proceed with the approved Scheme would have serious harmful effects on the provision of highways improvements and regeneration in Blackburn and have significant implications for the well-being of its community. A failure to confirm the Order would:
- (a) involve the loss of substantial investment in the planning and preparation already undertaken to develop the FSLR proposals;
 - (b) result in the non-delivery of a scheme which benefits from planning permission and which only requires confirmation of the SRO and CPO to enable development;
 - (c) leave a large area of previously-developed land vacant and underused;
 - (d) delay and disrupt the Council's town centre regeneration programme; and,
 - (e) mean that an important opportunity would be missed to improve town centre infrastructure, the local environment and the redevelopment and regeneration of adjoining and adjacent areas of land. Those improvements are designed to complement wider social, economic and environmental improvements in Blackburn and the regeneration of its town centre.
- 4.1.20 The principal reason why the CPO is required is to enable land assembly and sufficient rights to be acquired so that the Scheme may proceed in a timely and well-planned manner in order to bring about public benefits to Blackburn.
- 4.1.21 Circular 06/2004 recognises compulsory purchase as a positive tool in planning to secure public benefits and compliance with important policy objectives. It indicates that: (emphasis () added):
- "Ministers believe that compulsory purchase powers are an important tool for local authorities and other public bodies to use as a means of assembling the land needed to help deliver social and economic change. Used properly, they can contribute towards effective and efficient urban regeneration, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life. Bodies possessing compulsory purchase powers – whether at local, regional or national level – are therefore encouraged to consider using them pro-actively wherever appropriate to ensure real gains are brought to residents and the business community without delay."*
- 4.1.22 The social, economic and environmental improvements that will result from the approved scheme demonstrate both the compelling case in the public interest for the Order to be confirmed and the consistency of the approved Scheme both with long-standing development plan policy and
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the Government's most up to date national policy, as set out in the NPPF.

Land requirements

4.1.23 Paragraphs 24-25 of Circular 06/2004 give the following guidance:

"24. Before embarking on compulsory purchase and throughout the preparation and procedural stages, acquiring authorities should seek to acquire land by negotiation wherever practicable. The compulsory purchase of land is intended as a last resort in the event that attempts to acquire by agreement fail. Acquiring authorities should nevertheless consider at what point the land they are seeking to acquire will be needed and, as a contingency measure, should plan a compulsory purchase timetable at the same time as conducting negotiations. Given the amount of time which needs to be allowed to complete the compulsory purchase process, it may often be sensible for the acquiring authority to initiate the formal procedures in parallel with such negotiations. This will also help to make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.

25. Undertaking informal negotiations in parallel with making preparations for a compulsory purchase order can help to build up a good working relationship with those whose interests are affected by showing that the authority is willing to be open and to treat their concerns with respect. This can then help to save time at the formal objection stage by minimising the fear that can arise from misunderstandings..."

4.1.24 Whilst BDBC already held interests in some of the land necessary for the implementation of the approved scheme, 32 other property interests were originally identified as required. 9 of these have since been acquired by agreement²¹. The remainder are included in the CPO as plot references 1-23. Permanent rights required to facilitate the construction and maintenance of the highway are listed as plot references 22a, 22b, 23a and 23b.

4.1.25 CPO plots 1, 6, 7, 8, 9, 12 and 21 are already owned by the Council. However, they are affected by unknown owners of reversionary and/or third party interests. Despite numerous investigations the Council has been unable to identify the relevant parties. Plots 10, 11, 13, 14, 15, 17, 18, 19, 22, 23, 22a, 22b, 23a and 23b involve unknown owners of various half street widths or river bed. Although investigations have been undertaken, BDBC has been unable to identify the relevant parties.

4.1.26 Attempts have been made to obtain the required interests in the remaining plots (2, 3, 4, 5, 16 and 20) through negotiation. Whilst contract completion is outstanding, negotiations in relation to CPO plots 2, 3 and 4 have recently been concluded resulting in the withdrawal of the related objections. Plot 2 would be taken up by approved highway

21 ID2 (H-010733-006revPL1).

improvement works. The approved scheme would include the formation of a turning head at the northern end of Byrom Street, which would conflict with the main access to plots 3 and 4, necessitating its stopping up. No alternative access can be provided to the existing premises either through the SRO or by some other means. Therefore, BDBC proposes to purchase the affected plots. No replacement access would be required in those circumstances and so the requirements of section 125 of the HA would be met.

- 4.1.27 Plots 5 and 16 lie in the path of the new road. Whilst negotiations have progressed to the extent that any associated objections to the Orders have been withdrawn, agreements have yet to be finalised.
- 4.1.28 BDBC acquired the freehold and long leasehold interests in plot 20 in 2009. However, the site is occupied by PTS Plumbers Merchants under the terms of an occupational lease held by PTS Group Limited which expires in 2020. Works associated with the new highway would encroach on PTS' premises. The alignment of the new highway would result in its western footway being around 1.2 metres higher than the existing ground level within the PTS site. A sloped embankment detail, to support the edge of the highway, would conflict with the PTS building and yard. The use of a retaining wall to support the edge of the highway has been considered as an alternative to an embankment. However, construction of the wall would have a significant impact on the foundations of the PTS building. Furthermore, it would leave insufficient room on the eastern side of the building for maintenance. The retaining wall would also reduce the size of the yard and as a consequence it is unlikely that it could safely accommodate the materials storage and access requirements of the business. Under the circumstances, implementation of the approved scheme requires that BDBC acquire PTS' interest in the site. Whilst this is not disputed by PTS, BDBC has been unable, so far, to secure the necessary interest through negotiation.
- 4.1.29 None of the titles or rights sought by the CPO has been shown to be unnecessary for the implementation of the approved scheme. Reasonable efforts have been made, and will continue to be made, to acquire the land and rights necessary to carry out the Scheme by agreement. However, it is now clear that the CPO is required to allow the implementation of the approved scheme to occur in a timely fashion. That is why the Council has followed the appropriate statutory procedures to make the CPO, alongside negotiations with affected landowners as Circular 06/2004 advises.

Availability of the necessary resources

- 4.1.30 The FSLR has an overall project cost of around £10.9m. Total expenditure on the project to date, in terms of acquisitions, and relocation of the Spiritualist Church, stands at approximately £4.7m, with the balance of around £6.2m for remaining acquisitions and road construction. This would be met in part by Local Transport Capital Block Funding confirmed

by the DfT²². The Council reconfirmed its resolution to fund the remainder from its Capital Programme as recently as 13 September 2012. Even in the current difficult economic climate and despite the real pressures on public sector finances, the Council remains committed to the FSLR as a capital spending priority, because of the highway improvements and regenerative impact that would be delivered by it. The necessary funding is in place.

Potential impediments to implementation

- 4.1.31 Planning permission was granted for the scheme in March 2011²³. In addition, LBC for the demolition of No. 53 King Street was granted in July 2011²⁴. Neither decision was challenged.
- 4.1.32 On the 11 September 2012 BDBC published a notice, pursuant to section 122 of the Local Government Act 1972, to the effect that it intends to appropriate an area of open space, which is part of St Peter's burial ground, to be used for highway purposes. The closing date for objections was 25 September 2012 and none were received. The approved scheme would make good the loss of open space through equivalent or better provision of equivalent community benefit in a suitable location; on parts of the site of the existing Canterbury Street car park.
- 4.1.33 In order to meet the Council's commitment to deliver the project as soon as possible, the procurement process for the appointment of a contractor for the construction works has been instigated. The Council published a Notice in the Official Journal of European Union²⁵ on 16 May 2012, inviting contractors who were interested in undertaking the works to submit information within a Pre-Qualification Questionnaire by 20 June 2012. Twenty-three responses were received by the Council. They will be assessed to identify a number of suitably experienced contractors who will then be invited to submit competitively priced tenders for the work, should the SRO and CPO be approved. Construction of the FSLR is planned to commence in Spring 2013.
- 4.1.34 Other than the formal confirmation of the Orders subject of these Inquiries, two additional matters remain outstanding:
- (a) A notice was served on the 11 September 2012 pursuant to Pastoral Measure 1983 in relation to the exhumation and re-interment of human remains. The notice period extends for several weeks beyond the Inquiry, until 23 October 2012. However, the scope for objection relates only to the details of how and when a body or bodies might be exhumed and how, when and where re-interment would take place, rather than the principle of exhumation.

22 ID15-Department for Transport letter dated 29 March 2012.

23 CD9.

24 CD17.

25 reference 2012/S93-153575.

Therefore, this matter is not an impediment to the implementation of the scheme. The Council will write to the Department when the notice period has concluded.

- (b) BDBC will promote a number of Traffic Regulation Orders, which are made necessary by the approved scheme in the interests of allowing and maintaining the safe passage of traffic. There is no reason to believe that they would not be confirmed.
- 4.1.35 Therefore, planning permission and LBC have been granted, the necessary funding is in place, the procurement process has begun and the Council has taken all necessary steps at this stage of the process, to progress the Scheme. Those steps demonstrate that the Council is committed to commencing and completing the Scheme as soon as practicable. The SoS can be satisfied that there are no likely impediments to the implementation of the FSLR development. All relevant matters have either been actioned already, or are at an advanced stage of resolution. There are no known obstacles to the Scheme progressing.

Conclusions

- 4.1.36 None of the CPO plots has been shown to be unnecessary for the implementation of the approved Scheme, which is in the public interest. However, the attempts that have been made to acquire the land titles and rights voluntarily have not been entirely successful. There is a compelling case in the public interest for the confirmation of the Order in order to achieve certainty in the progression of the approved scheme.

Human Rights

- 4.1.37 Circular 06/2004 provides that a CPO should only be made:
- "... where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the Human Rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the ECHR..."*
- 4.1.38 Consideration of Human Rights issues, principally with respect to Article 1 of the First Protocol, adds little, if anything, to the approach required by the SoS in Circular 06/2004 and by the UK courts. In all cases, the making of a CPO to acquire private interests in land must be shown to be justified in the public interest²⁶.
- 4.1.39 The confirmation of the Orders would impact on PTS' business, as it would need to find alternative premises. However, PTS would be appropriately compensated for relocating its business and BDBC has identified that there

26 ID10 Appendix 1-Detailed Legal Submissions.

are other suitable premises available in areas better suited to trade counter uses such as this. The level of compensation would be a matter to be agreed as part of the ongoing negotiations with BDBC or determined through the Lands Chamber. Furthermore, the current use of the premises creates a hazard to highway users. None of PTS' points, taken individually or collectively, constitutes valid grounds not to confirm the CPO.

- 4.1.40 Having had regard to the Human Rights of those with an interest in the land affected by the CPO, BDBC has acted proportionately in making the Order.

Conclusions

- 4.1.41 For the reasons summarised above, there is a compelling public interest that the CPO be confirmed. The consequential interference with private property rights and interests within the Order Land is proportionate and does not outweigh the clear and compelling public interest in the Scheme proceeding. Accordingly, the Council respectfully requests the SoS to confirm the CPO, with the proposed modifications, CPOa.

4.2 The Side Roads Order 2012 (SRO)

- 4.2.1 The SRO is required to ensure that the existing highway layout can be modified to allow for the configuration of the approved scheme and none of the objectors suggests that this is not necessary if the approved scheme is to go ahead.
- 4.2.2 The main components of the approved scheme include a dual two lane carriageway extending between the King Street/Montague Street junction, to the north, and the Wainwright Bridge, to the south. From the King Street/ Montague Street junction, heading south, the route would bisect the land between Freckleton Street to the east and Byrom Street to the west, crossing Chapel Street, St Peter Street, the River Blakewater (to be culverted under the FSLR) and Canterbury Street, before re-aligning with the existing Freckleton Street alignment and proceeding over the Wainwright Bridge.
- 4.2.3 The route incorporates two general traffic lanes and a cycle lane northbound and a general traffic lane together with a combined bus and cycle lane southbound. The King Street/Montague Street junction and the Canterbury street junction would be improved, signal controlled and would incorporate full pedestrian crossing facilities and advanced cycle stop lines.
- 4.2.4 The King Street/ Montague Street junction would facilitate all potential traffic turning movements. In particular, whereas southbound traffic from Montague Street currently has to turn left into King Street and then right into Freckleton Street before crossing the Wainwright Bridge, and northbound traffic on Byrom Street has to turn right on to King Street and

then left into Montague Street, the new junction will allow traffic to flow directly south and north.

- 4.2.5 A new four-arm junction will be created where the FSLR meets King Street/ Montague Street, removing the existing staggered arrangement and reducing associated delay caused by lost time in the traffic signals. The existing Byrom Street/King Street junction would be closed to allow the new King Street/Montague Street junction to operate effectively and safely. Byrom Street would become two-way to serve local businesses, with a turning head at its northern end.
- 4.2.6 A new four-arm junction at Canterbury Street would provide access to and from Byrom Street and connected streets. Access to Freckleton Street would be provided from the FSLR at the proposed Canterbury Street junction. Egress onto the network from the new fire station (situated south west of the Canterbury Street/Freckleton Street junction) would be via a new traffic signal system, incorporating a facility inside the fire station to impose an all red phase, allowing fire engines swift access on to the highway network.
- 4.2.7 Two metre wide footways would be provided along the link road and at the King Street/Montague Street and Canterbury Street junctions, together with pedestrian island and crossing facilities. Dropped kerbs would be included in the design of all of the footways at controlled crossing points.
- 4.2.8 The SRO includes the stopping up of 5 areas of highway (1-5).
- 1) The highway stopped up in area 1, which comprises a section of Canterbury Street, would be replaced by the new highway. This would provide a reasonably convenient alternative enabling continued east/west connectivity as well as a new north/south route.
 - 2) The section of Chapel Street linking Byrom Street and Freckleton Street, area 2, would be stopped up. Other reasonably convenient routes between those two streets would be available, including a route along King Street/Chapel Street and another along Canterbury Street.
 - 3) Under the terms of the original SRO the section of St Peter Street from its junction with the eastern boundary of Byrom Street to the eastern side of the new highway would be stopped up. The section of the street coincident with the route of the new highway would have a toucan crossing, providing continued east/west connectivity for non-vehicular traffic. However, that connectivity would be lost over the section of St Peter Street between Byrom Street and the new highway. The SROa addresses this, as only the section of St Peter Street coincident with the route of the new highway would be stopped up.
- Whilst vehicular traffic would no longer be able to travel between Freckleton Street and Byrom Street along St Peter Street, the

reasonably convenient alternative routes referred to in relation to area 2 would be available.

- 4) Area 4 is a narrow accessway between Byrom Street and the back of Union House. However, a reasonably convenient alternative route to this property would be retained off St Peter Street.
- 5) Area 5 comprises a 10 metre section of a footway that leads from Montague Street to Prince's Street. The re-aligned footway along the eastern side of Montague Street, which forms part of the approved scheme, would provide a reasonably convenient alternative.

4.2.9 The SRO would also allow the stopping up of 5 private accesses (X1-5). BDBC considers that no replacement means of access are reasonably required.

- 1) Accesses X1 and X2, which would be stopped up, currently serve a public car park. As part of the approved scheme, those areas of the car park not taken up by the new highway would become landscaped public open space accessible on foot from adjacent footways.
- 2) Access X3 serves a plot of land within the ownership of the Council. Any residual land within this plot that is not taken up by the new highway works would be reconfigured for redevelopment in the future in keeping with the aims of the FSMP SPD. BDBC does not require a replacement access at this time. If access is required in the future it would be secured as part of a detailed planning application for the redevelopment of the site.
- 3) Access X4 currently serves as the only access to the premises of PTS. The approved scheme would have a direct impact on the eastern section of the site and as a consequence implementation of the approved scheme requires that BDBC acquire PTS' interest in the plot. Due to the limited size of the existing service area, deliveries to and from the site are already routinely forced to load/unload from the highway. This presents a hazard to other highway users as the entrance to the premises is on a bend. The access would be stopped up. Any residual land within this plot that is not taken up by the new highway works would be reconfigured for redevelopment in the future in keeping with the aims of the FSMP SPD. BDBC does not require a replacement access at this time. If access is required in the future it would be secured as part of a detailed planning application for the redevelopment of the site.
- 4) Access X5 currently serves as the main access to the premises of Able Motors. It would be stopped up in order to allow the formation of a turning head at the northern end of Byrom Street. No alternative access can be provided to the existing premises either through the SRO or by some other means. Therefore, in order to ensure that the requirements of section 125 of the HA

are met, BDBC proposes to purchase the affected site. Any residual land within this plot that is not taken up by the new highway works would be reconfigured for redevelopment in the future in keeping with the aims of the FSMP SPD. BDBC does not require a replacement access at this time. If access is required in the future it would be secured as part of a detailed planning application for the redevelopment of the site.

Conclusion

- 4.2.10 Accordingly, the relevant statutory tests are met and the Council respectfully requests the SoS to confirm the SRO, with the proposed modifications (SROa).

5 THE CASE FOR THE OBJECTORS

The gist of the material points made by objectors:

5.1 PTS GROUP LIMITED (PTS)²⁷

- 5.1.1 PTS is the leaseholder of plot 20 and objects to both the SRO and CPO on the following grounds:

- a) PTS currently trades from premises within plot 20 and the proposed scheme would have a significant detrimental impact on its business;
- b) the construction of the highway to provide a link between Wainwright Bridge (A6078) and King Street/Montague Street is not considered essential and does not appear to be for the public benefit;
- c) the FSLR would result in the loss of open space; and,
- d) the funding for the proposal is uncertain and has not been proven.

5.2 The case for Blackburn with Darwen & Rural Civic Voice (CV)²⁸

- 5.2.1 Whilst in favour of an orbital route around Blackburn centre, CV questions the choice of route for the FSLR. CV doubts whether the route chosen represents value for money and suggests that it should be reconsidered.

- 5.2.2 CV acknowledges that the Council considered five route options (1-5) for the FSLR before granting planning permission for option 1. The NATA (2009) studied 4 route options, which were assessed under the topic headings of environment, safety, economy, accessibility, integration and implementation. The total scoring indicated that option 1 should be preferred. During the consideration of the planning application a variation on option 3, known as option 5, was identified by a consultee. Based on a

27 CD32.

28 ID20.

report commissioned by the Council to compare the differences between options 3 and 5, BDBC came to the conclusion that there was little difference between them.

- 5.2.3 However, CV is uneasy about this appraisal process followed. It considers that the analysis upon which the decision was based was flawed in a number of respects. These include that a number of the topics should, in its view, have been scored differently and the analysis did not include any weighting of the topics to account for their relative levels of importance. CV considers that weighting could have resulted in option 5, rather than option 1, being preferred.
- 5.2.4 Furthermore, an additional option should have been considered, which would involve a 'three arm junction' (TAJ), rather than four arm, at the intersection of King Street with Montague Street.
- 5.2.5 Neither option 5 nor the TAJ suggested by CV would involve the demolition of No. 53, a Grade II Listed Building, or the disturbance of the grave yard. Furthermore, the cost of disturbing burials does not appear to have been properly included in the official estimates for the FSLR.
- 5.2.6 CV's concerns are outlined in its leaflet entitled *King Street-Past, Present & Future-an inconvenient truth!*, which was issued to councillors prior to the Council's determination of the planning application Ref. 10/09/1054.

6 REBUTTAL BY BLACKBURN WITH DARWEN BOROUGH COUNCIL

6.1 PTS GROUP LIMITED (PTS)

- 6.1.1 The likely impact of the confirmation of the Orders on the business of PTS has already been addressed²⁹. The need for an orbital route has been highlighted in the Development Plan as part of the regeneration strategy for Blackburn for some time. Furthermore, the FSLR, for which planning permission has been granted, forms an essential part of that route and there is a compelling case in the public interest to confirm the Orders, as has already been outlined. The approved scheme includes the provision of new landscaped public open spaces, which would adequately mitigate any loss of existing open space that would result from the approved scheme. The new provision would be equivalent or better in terms of quantity and quality. There is no uncertainty with respect to funding, which has been approved as part of the Council's Capital Programme, with Government approved Local Transport Plan funding support.

6.2 Blackburn with Darwen & Rural Civic Voice (CV)

- 6.2.1 CV's written submission was only submitted to the Inquiries late on 25 September 2012 and is not a duly made objection. In substance it reiterates representations made by CV in relation to the applications for planning permission and Listed Building Consent, which were carefully

²⁹ Paragraph 4.1.39.

considered by Committee Members and the Secretary of State for Communities and Local Government respectively, prior to determination in 2011. The Council does not accept the accuracy or validity of the content of the submissions and invites the SoS to prefer the detailed evidence on heritage matters and route alignment set out in detail in the Report to Committee³⁰. Importantly in this context, it is relevant to record that the approved scheme has undergone extensive and comprehensive consultation and scrutiny not only by the Council and the Government, but also statutory agencies, such as English Heritage and the Environment Agency, as well as by the public over a prolonged period of evolution and development, including detailed consideration of various possible alignments.

- 6.2.2 The Council used the New Approach to Appraisal (NATA) to inform its identification of the optimal route alignment for the link road. NATA is a framework that the Department for Transport provides to support those developing business cases for Government funding or approval. BDBC's NATA (2009) appraisal of options 1-4 was undertaken independently of the Council and in accordance with current guidance. The NATA (2009) scores were not weighted in order to provide members with an unbiased baseline on the basis of which they could make their own judgement in the context of the wider planning and regeneration issues relevant in the case. Against this background option 5 was also assessed. Furthermore, in response to concerns regarding the potential impact of a scheme to reverse King Street³¹, further sensitivity testing was undertaken and taken into account by the Council.
- 6.2.3 CV's planning application consultation response suggested that St Peters graveyard contains over 7,000 bodies and it estimated that the related additional cost associated with option 1 may be in excess of £2.5 million. However, the records of the diocese indicate that there are only around 1,000 graves. Furthermore, the line taken by option 1 is through the footprint of the former church, rather than the grave yard, for the most part. BDBC is content that the costs analysis upon which the planning decision was based made sufficient allowance for re-interment. The Benefit to Cost ratio of the approved scheme has been identified as 4.1³² which indicates that it represents high value for money; higher than option 3 at 2.8.
- 6.2.4 The Council took full and proper account of these matters as well as the heritage implications of the scheme and determined that option 1 follows the optimal route alignment, granting planning permission on that basis. This decision has not been formally challenged.
- 6.2.5 There is no evidence that a scheme including the TAJ option suggested by CV would better meet the statutory tests than the approved scheme.

30 CD10.

31 PE2 appendix RTS1-King Street Reversal.

32 Including King Street reversed (CD10 p.90).

Furthermore, a number of FSLR objectives would not be met by such a scheme. The TAJ option would be likely to cause congestion and localised 'rat-running' along Princes Street past a school, with adverse implications for pedestrian safety. It would not ease the confusion amongst highway users leaving the town centre along King Street, which is caused by the severance of that east-west route and diversion along Freckleton Street. It does not represent a credible alternative and should be rejected.

- 6.2.6 Even in cases where there may be an alternative to a CPO scheme, this is not of itself sufficient to prevent there being a compelling case for compulsory acquisition, particularly if there are good reasons for the option being pursued through the CPO³³. It is clear that the SoS and the Courts consider that the creation of delay and uncertainty in considering alternative proposals put forward in support of CPO objections is a highly material consideration in rejecting the objections and confirming the CPO. If there are compelling public reasons for the delivery of the Scheme here, as is the Council's case, the delivery of alternatives, even were they considered to be appropriate, which is not the case, would cause damaging delay and uncertainty in the delivery of the Scheme and its benefits.
- 6.2.7 There is no suitable alternative site and no alternative proposal which has even been formulated, let alone begun the lengthy process which the current Scheme has been through to reach the current stage. At best, there would be a lengthy delay, and prejudice to the local community, if the Scheme were rejected because of an as-yet unformulated alternative.

33 ID10 appendix 1-supporting legal submissions.

7 CONCLUSIONS

Bearing in mind the submissions that I have reported, I have reached the following conclusions, references being given in square brackets [] to earlier paragraphs where appropriate.

7.1 THE COMPULSORY PURCHASE ORDER (CPO)

- 7.1.1 ODPM Circular 06/2004 confirms that a compulsory purchase order should only be made where there is a compelling case in the public interest and the purposes for which the compulsory purchase order is being made sufficiently justify interfering with the Human Rights of those with an interest in the land affected. Factors to be taken into account in determining whether there is a compelling case in the public interest include whether: all the land affected by the order is required; the necessary resources to acquire the land and implement the scheme for which the land is required are likely to be available within a reasonable timescale; the scheme is unlikely to be blocked by any impediments to implementation; and, whether efforts have been made to secure the required land rights and titles by negotiation.

The Public Interest

Need for the approved Scheme

- 7.1.2 The need for an orbital route around Blackburn Town centre has been highlighted by the Development Plan for some time [4.1.2]. It is an essential part of the strategy to remove through traffic from the town centre and deliver improvements in public transport, town centre facilities and the public realm [4.1.18]. The approved scheme, for which planning permission Ref. 10/09/1054 was granted, would complete the town centre orbital route in a manner in keeping with the Council's FSMP SPD as well as the aims of the Development Plan and the Framework [4.1.18]. In broad terms, the purpose of the compulsory purchase order is to enable development to take place in accordance with the approved scheme [4.1.20].
- 7.1.3 The approved scheme is designed to address a number of existing problems in the area. These include high levels of congestion in the locality that lead to significant delays during peak periods; localised rat-running; and, confusion amongst highway users associated with the existing one-way system and east-west severance across the north-south route [4.1.10]. Furthermore, the FSLR is expected to be a catalyst for regeneration by creating an attractive route through the Freckleton Street area, which provides visibility and access suitable for employment uses on neighbouring underused or vacant sites. BDBC estimates that the FSLR has the potential to facilitate the creation of 450 jobs [4.1.14,15].

- 7.1.4 CV has drawn attention to three route options that it considers may be superior to that which is proposed [5.2.1-6]. However, the route options investigated by BDBC prior to granting planning permission for route option 1, included two of the route options favoured by CV, options 3 and 5. The options appraisal upon which the Council's decision was based included the use of the DfT's NATA and took account of the fact that options 3 and 5, unlike the approved scheme, would not involve the demolition of a Grade II Listed Building or disturbance of St Peter's Church graveyard. The Council cost estimate for re-interment was based upon diocese burial records and the route of the approved highway [6.2.2, 6.2.4]. In my judgement, the Council's approach appears to have been reasonable. Furthermore, BDBC's decision to grant planning permission on the basis of option 1 has not been challenged. Nor has the decision of the Secretary of State for Communities and Local Government to grant Listed Building Consent for the demolition of the Listed Building [4.1.31].
- 7.1.5 The TAJ option promoted by CV at the Inquiries was not one of the options formally appraised by the Council prior to granting planning permission for the approved scheme [5.2.4]. However, BDBC has confirmed that a number of important objectives of the FSLR would not be met by the TAJ option. It would be likely to cause congestion and localised 'rat-running' along Prince's Street past a school, with adverse implications for pedestrian safety. Furthermore, it would not ease the confusion amongst highway users leaving the town centre along King Street, which is caused by the severance of that east-west route and diversion along Freckleton Street [6.2.5]. There is no compelling evidence to the contrary.
- 7.1.6 In my judgement, the options promoted by CV do not merit further investigation and I am content that, in comparison with the approved scheme, they are not to be preferred.
- 7.1.7 The calculated Benefit to Cost Ratio for the approved scheme indicates that it represents high value for money [6.2.3]. Subject to confirmation of the CPO and SRO, construction would be expected to commence in 2013 [4.1.33]. Delay in confirmation would be likely to add to the costs and have a negative impact on the delivery of the significant economic benefits of the approved scheme for the area [4.1.19].

Land requirements

- 7.1.8 Neither PTS nor any other party dispute that the titles and rights sought by the CPO are necessary for the implementation of the approved Scheme [4.1.29]. I consider that, subject to the CPOa modifications, it is necessary to acquire those titles and rights sought by the Order.

Availability of the necessary resources

- 7.1.9 PTS raised the concern that the funding for the approved scheme was uncertain [5.1.1]. The approved scheme has an overall project cost of around £10.9m. Notwithstanding the current difficult economic climate

and pressure on public finances, BDBC remains committed to the delivery of the scheme, due to the highway improvements and regenerative impact that would be delivered. Total expenditure to date stands at approximately £4.7m. The balance would be met in part by Local Transport Capital Block Funding, confirmed by the DfT. The Council reconfirmed its resolution to fund the remainder from its Capital Programme as recently as 13 September 2012 [4.1.30].

- 7.1.10 I conclude that the necessary resources to acquire the land and rights set out in the CPO and to implement the approved scheme are likely to be available within a reasonable timescale.

Potential impediments to implementation

- 7.1.11 Planning permission was granted for the approved Scheme in 2011 as was Listed Building Consent for the demolition of No. 53 King Street [4.1.31].
- 7.1.12 On the 11 September 2012 BDBC published a notice, pursuant to section 122 of the Local Government Act 1972, to the effect that it intends to appropriate an area of open space, which is part of St Peter's burial ground, to be used for highway purposes. The closing date for objections was 25 September 2012 and none were received. The approved scheme would make good the loss of open space through equivalent or better provision of equivalent community benefit in a suitable location; on parts of the site of the existing Canterbury Street car park [4.1.32].
- 7.1.13 On the 11 September 2012 the Council also published a notice, pursuant to Pastoral Measure 1983, relating to its intention to remove human remains and memorials from parts of St Peters burial ground and re-interment. The notice period extends beyond the Inquiries to 23 October 2012. However, the scope for objection is limited to details of how and when remains might be exhumed and how, when and where re-interment would take place, rather than the principle of exhumation [4.1.34]. It appears unlikely that this would give rise to an impediment to the implementation of the approved scheme.
- 7.1.14 The Council will promote a number of Traffic Regulation Orders, which are made necessary by the approved scheme in the interests of allowing and maintaining the safe passage of traffic [4.1.34]. I have no reason to believe that they would not be confirmed.

Acquisition of land by negotiation

- 7.1.15 Whilst I am satisfied that BDBC has actively sought to acquire the land interests necessary for the implementation of the approved scheme through negotiation, a number have not been fully secured [4.1.29]. In my judgement, it is likely that without the CPO the approved Scheme would be delayed or would not be implemented at all. The CPO is necessary to achieve certainty in the progression of the scheme.

Conclusion

- 7.1.16 Confirmation of the Order is required now to ensure that the economic benefits of the approved Scheme can be brought forward in a timely and cost effective manner [4.1.19, 4.1.36]. I conclude on balance, that there is a compelling case in the public interest for the CPO to be confirmed, subject to identified amendments.

Human Rights

- 7.1.17 ODPM Circular 06/2004 indicates that regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the *Human Rights Act 1998 (as amended)*. That is, *every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.*

PTS Group Limited

- 7.1.18 As a consequence of the Compulsory Purchase Order, PTS would lose its leasehold of plot 20 and it would be necessary to relocate its business. In my view, if the approved Scheme is to be implemented, it is unlikely that this could be avoided [4.1.28]. Furthermore, the indications are that suitable alternative premises could be found for the PTS business that would be displaced by the approved scheme and PTS would be appropriately compensated for relocation. The level of compensation would be a matter to be agreed as part of the ongoing negotiations with BDBC or determined through the Lands Chamber [4.1.39].

Conclusions

- 7.1.19 I consider that the land titles and rights sought by the CPO, subject to CPOa modifications, are a proportionate response to the needs of the approved scheme. Having regard to the Human Rights of PTS as well as those of others with an interest in the land affected by the CPO, in my judgement, there is clear evidence that the public benefit associated with the Order would outweigh the private loss of those people with an interest in the land. I conclude on balance, that the purposes for which the CPO has been made sufficiently justify interfering with the Human Rights of those with an interest in the land affected. No infringement of the *Human Rights Act 1998 (as amended)* would result from the confirmation of the CPO, modified in accordance with CPOa. This Order should be confirmed.
- 7.1.20 If the SoS were to determine that the CPO cannot be confirmed, as set out above, this would also be fatal to the SRO, which relies upon it for

statutory compliance [4.2.9(4)].

7.2 THE SIDE ROADS ORDER (SRO)

7.2.1 If I am to recommend that this Order be confirmed, I need to be satisfied in the following respects:

- In relation to the stopping up of highways, that another reasonably convenient route is available or will be provided before the highway is stopped up³⁴.
- In relation to the stopping up of private access to premises, that: no means of access to the premises is reasonably required; or, that another reasonably convenient means of access to the premises is available or will be provided in pursuance of an order made by virtue of section 125(1)(b) or otherwise³⁵.

7.2.2 The SRO includes the stopping up of 5 areas of highway (1-5) and, subject to the SROa modifications, in each case a reasonably convenient alternative is either available or would be provided for by the SRO [4.2.8].

7.2.3 The SRO would also allow the stopping up of 5 private accesses (X1-5). X1 and X2 serve a car parking area. As part of the approved scheme, those areas not taken up by the new highway would become landscaped public open space accessible on foot from adjacent footways. Parts of the sites served by accesses X3, X4 and X5 fall within the footprint of the new highway. All rights to those affected plots, where not already within the title of BDBC, would be secured by the CPO to enable the construction of the new highway. Any residual land within these plots that is not taken up by the new highway works would be reconfigured for redevelopment in the future in keeping with the aims of the FSMP SPD. BDBC does not require a replacement access to the plots served by X3, X4 or X5 at this time. If access is required in the future it would be secured as part of a detailed planning application for the redevelopment of the site [4.2.9].

7.2.4 Therefore, I am content that the provisions of the SRO, modified in accordance with SROa, would comply with the statutory tests, a matter which is not disputed by others [4.2.10].

7.2.5 PTS' objections relate to the potential impacts of the approved scheme on its business and open space, the need for the FSLR and perceived uncertainty with respect to funding [5.1.1]. CV's objections relate to its view that the FSLR should follow a different route [5.2.1]. In my judgement, whilst these concerns are material to the consideration of the

34 Section 14(6) of the Highways Act 1980.

35 Section 125(3) of the Highways Act 1980.

CPO, they are not directly relevant to the assessment of whether the SRO accords with the identified statutory tests.

- 7.2.6 I conclude that the SRO modified in accordance with SROa would, in conjunction with the CPO (modified in accordance with CPOa), comply with the statutory tests. This Side Roads Order is necessary for the implementation of the approved Scheme and, under the circumstances identified, should be confirmed.

8 RECOMMENDATIONS

- 8.1 I recommend that The Borough of Blackburn with Darwen (A6078 Freckleton Street Link Road) Compulsory Purchase Order 2012 be modified in accordance with CPOa (as detailed in paragraphs 3.2-3.5) and that the Order so modified be confirmed.
- 8.2 I recommend that The Borough of Blackburn with Darwen (A6078 Freckleton Street Link Road) Side Roads Order 2012 be modified in accordance with SROa (as detailed in paragraphs 3.2-3.5) and that the Order so modified be confirmed.

I Jenkins

INSPECTOR

APPENDICES**APPENDIX 1****APPEARANCES AT THE INQUIRIES****BLACKBURN WITH DARWEN BOROUGH COUNCIL:**

Mr G Keen
Of Counsel

Instructed by Mr D Fairclough, Director of Human Resources and Legal Services.

He called
Mr N Rodgers

Head of Planning & Transport, Blackburn with Darwen Borough Council.

Mr R Saint
Mr T James

Design and Policy Manager, Capita Symonds (Blackburn).
Principal Surveyor, Capita Symonds (Blackburn).

OBJECTORS:

Professor D Smalley
Councillor S Huggill

Blackburn with Darwen & Rural Civic Voice.
Blackburn with Darwen & Rural Civic Voice.

APPENDIX 2**CORE DOCUMENTS LIST****ORDER DOCUMENTS**

- CD1 The Borough of Blackburn with Darwen (A6078 Freckleton Street Link Road) Compulsory Purchase Order 2012.
- CD2 CPO map.
- CD3 The Borough of Blackburn with Darwen (A6078 Freckleton Street Link Road) Side Roads Order 2012.
- CD4 Side Roads Order map.
- CD5 Statement of Reasons relating to the Orders.

REPORTS

- CD6 Report to Executive on the making of the CPO and SRO dated July 2011.
- CD7 Report to the Executive Board relating to the acquisition of Able Motors 63-69 King Street, Blackburn.
- CD8 Report to the Executive Board relating to the Freckleton Street to Montague Street Link Road-Preferred Alignment-October 2009.

PLANNING DOCUMENTS

- CD9 Planning permission dated 17 March 2011.
- CD10 Report to the Planning and Highways Committee of 17 March 2011 and approved drawings.
- CD11 Freckleton Street Masterplan Supplementary Planning Document 2007.
- CD12 Local Transport Plan 2 (2006-2011)
- CD13 Local Transport Plan 3 (2011-2021)
- CD14 Local Transport Plan 3 (2011-2021) implementation plan.
- CD15 Local Transport Plan 3 (2011-2021) environment report.
- CD16 Freckleton Street Link Road consultation summary document.
- CD17 Listed Building Consent from the Secretary of State for Communities and Local Government, dated 13 July 2011.
- CD18 BDBC Core Strategy 2011 (extracts).
- CD19 Towards a Sustainable Employment Land Strategy (TSELS) May 2005.
- CD20 Blackburn Town Centre Strategy (March 2010).
- CD21 Blackburn Town Centre Parking Strategy and Transport Strategy-consultation document.
- CD22 NATA (2005).

- CD23 NATA (2009).
CD24 National Planning Policy Framework.

CIRCULARS

- CD25 ODPM Circular 06/2004 Compulsory Purchase and the Crichel Down Rules.
CD26 Department of Transport Circular 02/1997.
CD27 Department of Transport Circular 01/1997.

OTHER RELATED DOCUMENTS

- CD28 Freckleton Street Link Road: The Regeneration Case.
CD29 Letter from the Environment Agency dated 11 December 2009.
CD30 Detailed engineering drawing.
CD31 Comparison Report- Options 3 and 5- July 2010.

OBJECTIONS

- CD32 Letter dated 22 February 2012 from Brook des Roches.
CD33 Letter dated 1 March 2012 from The Solomon Partnership LLP.
CD34 Letter dated 1 March 2012 from The Solomon Partnership LLP.
CD35 Letter dated 29 February 2012 from the Spiritualists' National Union.
CD36 Letter dated 29 February 2012 from the Spiritualists' National Union.

OTHER CORRESPONDENCE

- CD37 Letter from DfT to BDBC, dated 15 May 2012.
CD38 Letter from BDBC to the DfT, dated 6 June 2012.
CD39 Notice of Public Inquiries.
CD40 Letter from the DfT to Jones Lang LaSalle, dated 26 July 2012.
CD41 Letter from BDBC to the DfT, dated 24 August 2012.

APPENDIX 3**INQUIRIES DOCUMENTS LIST****BLACKBURN WITH DARWEN BROUGH COUNCIL-Proofs of Evidence**

PE1	Proof of Evidence of Neil Rodgers.
PE2	Proof of Evidence of Richard Saint.
PE3	Proof of Evidence of Trevor James.

OTHER INQUIRY DOCUMENTS

ID1	Index of notices.
ID2	Planning permission Ref. 10/09/1054 approved drawings (H-010733-001rev PL4, 002revPL2, 003revPL2, 004revPL3, 005revPL1 & 006revPL1).
ID3	Local Government Act 1972 section 122(1), 2A notice.
ID4	Pastoral Measure 1983 notice.
ID5	The Blackburn with Darwen Borough Local Plan.
ID6	Extracts from the North West of England Plan Regional Spatial Strategy to 2021.
ID7	Extracts from the Core Strategy-Part of the Blackburn with Darwen Local Development Framework.
ID8	Minor amendment to planning permission Ref. 10/09/1054, dated 5 October 2011, including drawing no. H-010733-001 revPL5.
ID9	Option 1-central route, showing the position of St Peter's Church.
ID10	Opening submissions on behalf of the Acquiring Authority.
ID11	Order advertisements.
ID12	National Grid objection (withdrawn).
ID13	Case law dossier.
ID14	Land Registry official copy of register of title no. LA379181 and associated PTS Group Limited lease.
ID15	Scheme funding-supporting evidence.
ID16	Scheme programme.
ID17	Drawing no. H010733-SK014-General layout with CPO boundaries.
ID18	Proposed Traffic Regulation Orders.
ID19	Proposed changes to the Side Roads Order (tracked changes, revised order and associated drawing no. H-049764-01-001revI02.)
ID20	Blackburn with Darwen & Rural Civic Voice written submissions.
ID21	Land Registry official copy of register of title no. LA390465.

ID22	Extract from the Acquisition of Land Act 1981.
ID23	Closing submissions on behalf of the Acquiring Authority.

APPENDIX 4**ABBREVIATIONS**

ALA	The Acquisition of Land Act 1981 (as amended).
approved scheme	The scheme for which planning permission Ref. 10/09/1054 was granted on the 17 March 2011.
BDBC	Blackburn with Darwen Borough Council.
Circular 06/2004	ODPM Circular 06/2004 Compulsory Purchase and the Crichel Down Rules.
CPO	The Borough of Blackburn with Darwen (A6078 Freckleton Street Link Road) Compulsory Purchase Order 2012.
CPOa	The CPO modified in accordance with paragraphs 3.2-3.4.
CS	The Blackburn with Darwen Borough Core Strategy 2011.
CV	Blackburn with Darwen & Rural Civic Voice.
DfT	The Department for Transport.
Framework	The National Planning Policy Framework.
FSLR	Freckleton Street Link Road.
FSMP SPD	Freckleton Street Master Plan Supplementary Planning Document
HA	The Highways Act 1980 (as amended).
LGA	The Local Government Act 1972.
LTP 3	Local Transport Plan 3.
LP	The Blackburn with Darwen Borough Local Plan 2002.
PTS	PTS Group Limited.
RSS	The Regional Spatial Strategy for the North West.
SoS	Secretary of State for Transport.
SRO	The Borough of Blackburn with Darwen (A6078 Freckleton Street Link Road) Side Roads Order 2012.
SROa	The SROa modified in accordance with paragraphs 3.2-3.4.
TAJ option	The three arm junction option suggested in Blackburn with Darwen & Rural Civic Voice's leaflet entitled <i>King Street-Past, Present & Future-an inconvenient truth!</i>