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# **Report to the Secretary of State for Transport**

**by John Wilde C.Eng M.I.C.E.**

**an Inspector appointed by the Secretary of State for Transport**

**Date: 16 April 2014**

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**HIGHWAYS ACT 1980**

**ACQUISITION OF LAND ACT 1981**

**THE READING BOROUGH COUNCIL (RIVER THAMES READING  
PEDESTRIAN/CYCLE BRIDGE) SCHEME 2013**

**THE READING BOROUGH COUNCIL (RIVER THAMES READING  
PEDESTRIAN/CYCLE BRIDGE) COMPULSORY PURCHASE ORDER 2013**

Inquiries held on 11 March 2014

File Ref: DPI/E0345/13/37

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## **CASE DETAILS**

### **Purpose**

- The Order and Bridge Scheme would allow the construction of a pedestrian/cycle crossing across the River Thames at Reading, as well as making improvements to the access to the proposed bridge from Vastern Road through to Norman Place and the Thames Side Towing Path.

### **The Compulsory Purchase Order**

- The Compulsory Purchase Order (CPO) is made by Reading Borough Council under sections 239, 250 and 260 of the Highways Act 1980 and the Acquisition of Land Act 1981. It is known as the Reading Borough Council (River Thames Reading pedestrian/cycle bridge) compulsory purchase order 2013, and is dated 22 July 2013. At the opening of the Inquiries there were no outstanding objections to the CPO.

### **The Bridge Scheme**

- The Bridge Scheme is made by Reading Borough Council under Section 106(3) of the Highways Act 1980. It is known as the Reading Borough Council (River Thames Reading pedestrian/cycle bridge) scheme 2013 and is dated 9 September 2013. At the opening of the Inquiries there were no outstanding objections to the Bridge Scheme.

### **Summary of Recommendations:**

#### **I recommend that:**

- **the CPO be modified and confirmed;**
- **the Bridge Scheme be modified and confirmed**

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## **PREAMBLE**

### ***The Inquiries***

1. I held concurrent Local Inquiries at the Town Hall, Blagrove Street, Reading, RG1 1QH on 11 March 2014. I conducted an unaccompanied site visit at about 1700 hours on 10 March 2014.

### ***Objectors***

2. There had originally been three Statutory Objections to the CPO from LSBP Ltd, Covea Insurance PLC and Standard Life Assurance Ltd. However, Covea Insurance PLC withdrew their objection on 19 February 2014, LSBP withdrew their objection on 26 February 2014 and Standard Life Assurance Ltd withdrew their objection on 7 March 2014. The correspondence relating to the withdrawal of this final objection was not received by the Planning Inspectorate until 10 March.

### ***Purpose of the proposals***

3. The proposed bridge and the associated access improvements would form a link over the River Thames in central Reading. The bridge would provide a dedicated pedestrian and cycle connection between Christchurch Meadows on the north bank of the river and Reading centre and railway station on south bank. It would be used by the pedestrians and cyclists currently using the two adjacent bridges that also accommodate vehicular traffic and would also facilitate onward connections to the wider highway and cycle network, enabling both pedestrians and cyclists to take a more direct route between Caversham and Reading town centres.

### ***This report***

4. This report sets out a brief description of the Order land and surroundings, the gist of the cases for the applicant, my conclusions, and my recommendations regarding the Order and Scheme. A list of those appearing at the Inquiries and of the Inquiries documents is appended to this report.

## **THE ORDER LAND AND SURROUNDINGS**

5. The proposed bridge would span the Thames to the east of Fry's Island from the towpath on the south bank to the park area on the north bank. The Order land includes the Thames riverbed, a section of the existing towpath to the south leading east as far as the existing Reading Bridge, and parcels of land along Norman Place and the non vehicular highway between Norman Place and the towpath. The towpath, Norman Place and the non vehicular highway represent the route to the bridge from Vastern Road which lies to the south, parallel to the river. To the south of Vastern Road is the ongoing route to Reading Station and Reading Centre.
6. The Order land is shown on drawing 27272/SK056A. This indicates the freehold land for acquisition shown edged red coloured pink, and the land requiring new rights over shown coloured blue.

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## PROCEDURAL MATTERS/MODIFICATIONS

7. Both the CPO and the Bridge Scheme are subject to minor modifications. Firstly I will deal with the CPO.

### *CPO modifications*

8. In Article 1 of the CPO the reference to paragraph 2 should be replaced with paragraph 2(1) and the reference to paragraph 3 should be replaced with paragraph 2(2). These modifications are confirmed in the email dated 4 February 2014 from Paul Bennett on behalf of Reading Borough Council to the National Transport Casework Team.
9. Plots 1, 2 and 6 should be removed from the Order. These changes arise due to agreements being reached with two of the Objectors, namely LSBP and Standard Life Assurance Ltd. As a consequence of this the names of these two former objectors should also be removed from the Order Schedule. These Modifications are confirmed in a letter dated 19 February from Bond Dickinson (solicitors acting on behalf of the Council) to the National Transport Casework Team.

### *Bridge Scheme modifications*

10. Six new dimensions relating to points of commencement and termination and two new dimensions relating to the width of the bridge added to Schedule Plan 1. Also two amendments dealing with the varying width of the footway and the width of the separate footways where these divide around the central mast added to Schedule Plan 2(ii). These modifications are in the interest of clarity and are confirmed in an email from Paul Bennett on behalf of Reading Borough Council to the National Transport Casework Team dated 5 March 2014.
11. Under the heading SPAN(S) in the schedule to the scheme the phrase *a single river span of 122.4 metres (of which 63 metres oversails the River Thames)* should be replaced with *a river span of 68 metres and a land span of 54 metres*. This minor modification is necessary to bring the dimensions given in the Bridge Scheme schedule into line with those given in the Council's Committee Report and is confirmed by an email from Paul Bennett on behalf of Reading Borough Council to the National Transport Casework Team dated 11 February 2014.

## THE CASE FOR THE APPLICANT

The material points are: (all taken from the Statement of Case)

12. The Order is required to facilitate the construction and thereafter maintenance of a proposed pedestrian/cycle bridge across the River Thames as well as making improvements to the access to the bridge from Vastern Road through to Norman Place and the Thames Side Towing Path (the Project). The Order Land includes land and rights over land that is part of the river bed of the River Thames. It is necessary to include this land in the CPO because of the assumption in law that the owner of land abutting a river also owns the river bed up to the medium line, in the absence of evidence to the contrary.
13. The Order is sought to acquire the land and rights in the land necessary to deliver the Project. The Project comprises:
  - i) Works to the existing highway at Norman Place to improve access.

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- ii) A straightening of the existing non-vehicular highway between the Thames Side Towing Path and Norman Place. This will also require some accommodation works to the adjoining land owned by Covea Insurance.
  - iii) Works to widen the southern Thames Side Towing Path.
  - iv) Construction of a bridge with ramp and steps (on the southern side) over the River Thames which will enter Christchurch Meadows on the north side of the river.
14. The Project forms part of the Local Sustainable Transport Fund (LSTF) award, being a package of measures submitted by the council and its partners. The primary aims of the fund are to promote sustainable economic growth and reduce the carbon impacts attributable to transport. The fund is administered by the Department for Transport. It formed part of a package of measures which was awarded £20.7million. The Project is an active travel intervention which will give connectivity and accessibility for pedestrians and cyclists between key destinations and residential areas. The Council's bid undertook the following analysis:
- A strategic Case identifying that the implementation of the package of measures represented a robust case for change that fits with wider public policy objectives.
  - An economic case that demonstrated that proposals were value for money (inclusive of a WebTAG assessment).
  - A commercial case that demonstrated the commercial viability of the project.
  - A financial case that showed the proposals to be financially affordable.
  - A management case that demonstrated that the proposals are achievable and that the Council has the expertise to deliver the Project.
- The LSTF grant is time limited and must be spent by 31 March 2015. There is sufficient funding in place for the acquisition of the interests required as well as the construction of the works required for the Project.
15. Subject to the approval of the Secretary of State, the Council has the power under Sections 239, 250 and 260 of the 1980 Act to compulsorily acquire land for the construction or improvement of a highway. The powers of acquisition in these sections are subject to distance limits of 220 yards from the middle of the highway or proposed highway. All of the land required for the Pedestrian/Cycle Bridge will be within the prescribed distances once the Bridge Scheme and Footpath Creation Order are made.
16. Under Section 250 of the 1980 Act the Council can acquire new rights over land. These are being acquired in preference to outright acquisition. This avoids the need to acquire the freehold of land where rights are sufficient. The Council seeks rights to access land adjoining highways for widening the highway or widening of the footpath adjoining Norman Place. It also seeks rights for the bridge to span the river rather than acquire the freehold. Under Section 260 of

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- the 1980 Act restrictive covenants over land already in the Council's ownership will be overridden if included within the CPO.
17. The works to Norman Place will improve the pedestrian and cycling route from Vastern Road to the Thames Side Towing Path via the link located between Thames Court and the Covea Insurance property. Some widening is required to plot 2 adjacent to Sovereign House with rights required over the landscaped area for the purposes of construction (plot 1). The current non-vehicular highway linking Norman Place with the Thames Side Towing Path has a 'dog leg'. In order to improve the access this is to be straightened which will widen the access point onto the Thames side tow path.
  18. This requires the acquisition of part of the freehold of the landscaped area (plot 5) of the Covea Insurance property to the rear of the garages (which will remain). In order to facilitate those works rights are included within the Order to permit access onto an adjoining part of the landscaped area to undertake the widening (plot 4). Some works to separate the access to the garages from the non-vehicular highway is also required to improve the safety of pedestrians, cyclists and vehicles using this area and the private access. At present there are only bollards present.
  19. Ownership of the section of the Thames Side Towing Path from Reading Bridge to the new bridge is required in order to undertake improvement works including some widening of the path, strengthening of the river bank and to facilitate the change in designation to allow for cycling to be undertaken (plots 7, 8 and 9).
  20. Access to the bridge will be via a ramp and steps on the south side which will link at grade to the existing Thames Side Towing Path (plots 10 and 11). This means that these elements are within the boundary of the river where the height clearance progressively reduces and there will be piled foundations to support the ramps and steps. The freehold acquisition of these areas is proposed. No acquisition of land is proposed on the northern side of the river as this land is already owned by the Council.
  21. The remaining rights are required to enable the vessels, plant and machinery required to be used for the construction period for the scheme (plots 12, 13, 15, 16 and 18).
  22. Article 8(1) of the European Convention on Human Rights (the Convention) provides that everyone has the right to respect for his/her home. However, Article 8(2) allows the State to restrict the rights to respect for the home to the extent necessary in a democratic society and for certain listed public interest purposes eg. public safety, economic well-being, protection of health and protection of the rights of others.
  23. When considering Article 8 in the context of a CPO the Council needs to ask the following questions: firstly, does a right protected by article 8 apply – to which the answer is "yes", and secondly, has an interference with that right taken place or will take place as a result of the compulsory purchase being made - to which the answer is again "yes".

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24. The affirmative answers to these two questions confirm that Article 8 applies and it is therefore necessary to consider the possible justifications for the interference under Article 8(2). There are 3 questions for the Council to consider: firstly, is the interference in accordance with the law? The answer is "yes", there being a legal basis for making the CPO under Sections 239, 250 and 260 of the 1980 Act. Secondly, does the interference pursue a legitimate aim? The justification for the CPO is that it seeks to achieve a particular purpose in the public interest, namely, the sustainable transport Project set in detail above. Further the interference is minimised due to the nature and extent of the interests sought. Thirdly, is the interference necessary in a democratic society? Here the Council must make a balancing judgement between the public interest and the rights of the individual – the CPO must be both necessary and proportionate.
  25. Article 1 of Protocol 1 provides that: every natural or legal person is entitled to the peaceful enjoyment of his possessions and that no one shall be deprived of those possessions except in the public interest and subject to the conditions provided for by law. However, the above rules shall not prevent a State enforcing such laws as it deems necessary to control the use of property in accordance with the general interest.
  26. The Council must decide in relation to Article 1 whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. The right to compensation is an important factor in considering the balance between the two.
  27. With regard to Article 8, the Council considered that in balancing the rights of the individuals who are affected by the CPO against the benefit to the transport infrastructure of proceeding with the CPO, the making of the CPO and the interference with the individual's rights is justified in the interests of the community in order to effect the improvements. It is to be noted that no buildings are affected and the majority of the land is in any case subject to existing public rights.
  28. With regard to Article 1 Protocol 1, the Council considers that the interference with the individual's property is justified by the advantages accruing to the public by proceeding with the works particularly taking into account the fact that there is a legal right to compensation for the property taken and rights extinguished under the CPO. It would be proportionate to proceed with the Order.
  29. The pedestrian/cycle bridge forms part of a package of projects submitted as part of a business case application to Central Government's Local Sustainable Transport Fund. The successful grant award resulting from this submission (inclusive of an element of contribution from the Council) means that the new pedestrian/cycle bridge will be funded. The LSTF grant is time limited and must be spent by 31 March 2015. There is sufficient funding in place for the acquisition of the interests required as well as the construction of the works required for the Project.
  30. The Council's Planning Applications Committee resolved to grant planning permission on 16 October 2013 and the planning permission was issued on 18 October 2013. In seeking to design the bridge works, the route of the bridge has been subject to an option assessment process and public



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consultation. The preferred option is within the corridor comprised in plots 14 and 17. Rights are required over these plots. The height clearance will be no less than for Caversham Bridge to allow vessels to continue to use this area.

31. It is not considered that there will be any impediments to the Project arising from the need to secure further outstanding consents in due course. As part of the matrix of consents to deliver the project the following are proposed:

- 1) Footpath creation order for the maintenance of the Thames Side Towing Path.
- 2) Bridge scheme for the crossing of the navigable river.
- 3) Flood drainage consent dealing with the permanent bridge proposals and the way in which construction will be undertaken.
- 4) Traffic regulation orders.
- 5) Planning Conditions forming part of the Planning Consent.

It is not anticipated that there will be any impediment to these being secured.

***The report continues on the next page***

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## CONCLUSIONS

32. Bearing in mind the submissions and representations reported above, I have reached the following conclusions, reference being given in square brackets <sup>□</sup> to earlier paragraphs where appropriate. I shall deal firstly with the Compulsory Purchase Order.

### Compulsory Purchase Order

33. In respect of Compulsory Purchase Powers, based on ODPM Circular 06/2004, there should be:

- A compelling case for acquisition in the public interest, and
- evidence that this justifies interfering with the human rights of those with an interest in the land, and
- evidence that the acquiring authority has a clear idea of how the land is to be used, and
- evidence that the acquiring authority can show that all necessary resources to carry out its plans are likely to be available in a reasonable time scale, and
- evidence that the scheme is unlikely to be blocked by any impediment to implementation.

### *Justification for the scheme*

34. The scheme forms part of a larger transport scheme that has obtained funding from the Department for Transport. The primary aim of the transport fund is to promote sustainable economic growth and reduce the carbon impacts attributable to transport. It would provide connectivity and accessibility for pedestrians and cyclists between key destinations and residential areas, and has undergone a series of appraisals looking at its economic, commercial, financial and management aspects. All of these appraisals were positive<sup>[14]</sup>. The scheme has also undergone an option assessment and public consultation and has been granted planning permission<sup>[30]</sup>. In light of these factors I consider that the scheme will deliver significant benefits and that there is a compelling case for acquisition in the public interest.

### *Human rights*

35. The Council have assessed the implications of the European Convention on Human Rights (the Convention) in detail<sup>[22-28]</sup>. They point out that no buildings would be affected, that the majority of the land is already subject to existing public rights<sup>[27]</sup> and that the right to compensation is an important factor when considering the balance between an individual's human rights and the demands of the general interest of the community<sup>[26]</sup>.

36. The Council conclude with respect to Article 1 of Protocol 1 and Article 8 of the Convention that the making of the CPO and the interference with the individual's rights is justified in the interests of the community in order to effect the improvements<sup>[27,28]</sup>. I have been given no evidence that would lead me to an alternative view.

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*How is the land to be used*

37. It is evident from the Council's description of the scheme<sup>[13,14]</sup> and the fact that it has been subject to the planning process<sup>[30]</sup> and a funding process that the Council have a clear idea as to how the land is to be used.

*Resources and time scale*

38. The Council have secured funding from the Department for Transport towards the scheme and I note that this funding has to be spent before 31 March 2015. They confirm that there is sufficient funding in place for the acquisition of the interests required as well as the construction of the works<sup>[14]</sup>. In light of this I consider that the necessary resources to carry out its plans are likely to be available in a reasonable time scale.

*Impediments to implementation*

39. The Council have evidently considered the necessary consents and legalities that would need to be addressed in order for the scheme to be implemented and completed<sup>[31]</sup>, and I have been given no reason to believe that the scheme is likely to be blocked by any other impediment.

*Bridge Scheme*

40. I turn now to the Bridge Scheme. Section 106 of the Highways Act 1980 requires the reasonable requirements of navigation over the waters affected by the Scheme to have been considered. The Council have confirmed that the new bridge would have a clearance of no less than the adjacent Caversham Bridge<sup>[30]</sup>.
41. There have been no objections to the Scheme and I am satisfied that sufficient headroom would be provided over the river. On this basis, there is nothing to prevent the confirmation of the Bridge Scheme.

**Overall conclusion**

42. I have assessed the CPO against the relevant statutory criteria and I have concluded that it complies. I have also found that the Bridge Scheme should be confirmed.

**RECOMMENDATIONS**

43. I therefore recommend that:

- the Reading Borough Council (River Thames Reading pedestrian/cycle bridge) Compulsory Purchase Order 2013 be modified as set out above and thereafter be confirmed;
- the Reading Borough Council (River Thames Reading pedestrian/cycle bridge) Scheme 2013 be modified as set out above and thereafter be confirmed.

*John Wilde*

Inspector

## **APPEARANCES**

FOR READING BOROUGH COUNCIL:

Mr Jonathan Bower of Bond Dickinson LLP

## **DOCUMENTS**

- 1 Inspector's Dossier.
- 2 Letter dated 7 March 2014 from Deloitte on behalf of Standard Life Assurance.