The Planning Inspectorate

Report to the Secretary of State for Transport

by I Jenkins BSc CEng MICE MCIWEM

an Inspector appointed by the Secretary of State for Transport

Date: 5 July 2013

HIGHWAYS ACT 1980

ACQUISITION OF LAND ACT 1981

THE NORTH YORKSHIRE COUNTY COUNCIL A684 BEDALE, AISKEW AND LEEMING BAR BYPASS COMPULSORY PURCHASE ORDER 2012

THE NORTH YORKSHIRE COUNTY COUNCIL (A684 BEDALE, AISKEW AND LEEMING BAR BYPASS CLASSIFIED ROAD)(SIDE ROADS) ORDER 2012

Date of Inquiries: 21, 22 and 23 May 2013.

Ref: DPI/P2745/13/6.

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CASE DETAILS

- **The North Yorkshire County Council A684 Bedale, Aiskew and Leeming Bar Bypass Compulsory Purchase Order 2012** (CPO), made under sections 239, 240, 246, 250 and 260 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 the 19 October 2012 and there were 9[1] objections outstanding to it at the commencement of the associated local Inquiry. This Order would authorise North Yorkshire County Council (NYCC) to purchase compulsorily land and new rights over land for the purposes described in the Order[2].
- **The North Yorkshire County Council (A684 Bedale, Aiskew and Leeming Bar Bypass Classified Road)(Side Roads) Order 2012** (SRO), made under sections 14 and 125 of the Highways Act 1980 (as amended) (HA) would be confirmed under section 8 of schedule 1 of the HA. This Order was first published on 26 October 2012 and there were 8 objections outstanding to it at the commencement of the associated local Inquiry. This Order would authorise NYCC to improve lengths of highway, stop up lengths of highway, construct new highways, stop up private means of access to premises and provide new private means of access to premises in accordance with the details set out in the schedules to the Order[3].

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

1 PREAMBLE

1.1 I have been appointed[4] by the Secretary of State for Transport (SoS) to conduct concurrent Inquiries for the purpose of hearing representations and objections concerning the applications made by NYCC for confirmation of the above mentioned Orders. I held those Inquiries at The Lodge, Leeming Bar on 21, 22 and 23 May 2013. I carried out site visits on 20 and 23 May 2013.

Purpose of the Orders

1.2 On 28 August 2012 NYCC granted planning permission[5] for the Bedale,

1 See paragraph 1.7/1.8.

2 CD2

3 CD3.

4 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).

5 BALB-10.

Aiskew and Leeming Bar Bypass (BALB). The bypass would comprise a 4.8 km long, 7.3 metre wide single carriageway with 1 metre wide edge strips, commencing at the existing A684 North End, to the north of Bedale, passing eastwards around the town of Bedale and the villages of Aiskew and Leeming Bar before connecting with the A684 Northallerton Road to the east of Leeming Bar. Approximately midway along its length, the proposed route crosses beneath the A1/A1(M) via an existing grade-separated junction.

1.3 Planning permission was granted for a new truck stop for Exelby at Leeming Bar on 16 October 2012. This necessitates a minor amendment to the planning permission for the bypass, in order to allow for a revised prioritisation of the proposed junction at Leases Road and Low Street. This does not require any consequential amendment to the CPO or the SRO, as it has already been taken into account. The traffic flows anticipated from the A1(M) scheme had already been modelled and taken into account in the bypass scheme design, so that the roundabout could accommodate the A1(M) improvements as well. The reprioritisation alone is required to accommodate the Exelby permission. The only change to the planning permission is the very minor one shown on drawing EVST/3001_05 Rev P8[6], which forms part of a planning application that has been submitted to the local planning authority for the variation of the bypass planning permission under section 73 of the *Town and Country Planning Act 1990*.

1.4 The purpose of the Orders is to enable development to take place in accordance with the approved bypass scheme, modified to allow for a revised prioritisation of the junction at Leases Road and Low Street (BALBa).

1.5 In general terms, the purpose of the proposed CPO is to enable NYCC to acquire the rights (HA s250) and titles to land (HA s260) which it has identified as being necessary in order to: construct the BALBa 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).

1.6 The SRO sets out the details of the existing highways that adjoin the Order land and are to be improved as well as new side roads that are to be created (HA s14). Other highways that will become redundant when the improvements are made or will disappear within the line of the new section of the A684 are included in the SRO as highways to be stopped up (HA s14). The SRO also includes stopping up of a number of private means of access to certain premises and the creation of some new private means of access to premises (HA s125).

6 PE1 appendix 1.

Objections to the Orders

1.7 Of the duly made objections received, 9 remained at the start of the Inquiries. The Trustees of the Bedale Estate[7] (TBE) objected to the CPO. The objection of Mr J Wilkinson and Mr N Wilkinson (JNW) made reference to the BALB in general, rather than the CPO and/or the SRO. As land owned by JNW is affected by both Orders, I shall treat this objection as relating to both. Mrs K Ellam (ME) objected to the CPO and SRO. Objections to both Orders were also made by Mr C Roberts, Mr and Mrs Coady, A R Smith, V N Smith and Mr C Wood who are all residents of Brookside Avenue (BAr). Although Mr and Mrs Hart, also of Brookside Avenue, wrote apparently to formally withdraw their objection prior to the start of the Inquiries, the letter indicated that they remained concerned with certain aspects of the scheme. Under these circumstances, I have taken this into account as an extant objection to both Orders. As the concerns of BAr all relate to flood risk, I will consider them together.

1.8 Mr K Cooper (MC) had withdrawn his duly made objection to both the SRO and CPO prior to the opening of the Inquiries. However, at the start of the Inquiries he indicated that he wanted to re-state his objection. With the agreement of NYCC, he was provided with an opportunity to do so on the second day of the Inquiries.

Scope of this Report

1.9 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 NYCC, TBE and MC were added to at the Inquiry through oral evidence.

2 DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

2.1 The site comprises a linear strip of land to the north of the settlements of Bedale, Aiskew and Leeming Bar, between North End to the west and Northallerton Road to the east. The route of the proposed bypass would cross mostly arable land, grazing pasture and woodland.

3 PROCEDURAL/LEGAL SUBMISSIONS

Statutory formalities

3.1 At the start of the Inquiries NYCC confirmed that all the statutory formalities had been complied with and this was not disputed by any other

7 Referred to as the Trustees of Bedale Estate Life Interest Settlement in the letter of objection.

party present.

Proposed CPO modifications

3.2 A modification is sought[8] by NYCC to column 2 of Table 1 of the CPO Schedule, relating to plot 100. NYCC has confirmed that this plot is required for the acquisition of rights and, in addition to the stated right to create a buffer zone, it should refer to the right to construct an access. This change is necessary to align the CPO with the SRO Site Plan no. 1 (new access 3) and the scheme for which planning permission[9] has been granted. NYCC explained that the landowners have been consulted on the proposed scheme, which includes the replacement of their existing access, and have not raised an objection. There is no need to identify any additional land or landowner. NYCC considers that this is not a substantial amendment and I agree. I will refer to this modification as CPOa and consider that it would be necessary in the event that the CPO were to be confirmed.

Proposed SRO modifications

3.3 BALB would sever a track which links Sand Hills Farmstead to associated land to the north, which would fall on the other side of the bypass route. The proposed scheme includes alternative access routes in the form of: an at-grade crossing on the line of the existing track (SHFAGC); and, an accommodation track which would run along either side of the bypass, linked by an underpass at Rectory Wood (RWAT). TBE has proposed that the SRO should be modified by: removing those alternatives and providing an underpass or overbridge on the line of the existing track (SROa); or, removing the SHFAGC, which would leave the RWAT as an alternative to the severed track (SROb).

3.4 Shortly before the opening of the Inquiries, it came to light that whilst North Yorkshire Police (NYP) object to the 'straight across' SHFAGC which is included in the SRO, it would be content with a staggered at-grade crossing (SROc)[10].

3.5 The Council propose to provide an additional two private means of access to create an at-grade agricultural crossing of the bypass to serve Aiskew Grange Farm. This would require a modification to the SRO in accordance with the amendment to Site Plan no. 3 and revised Schedule 3 (SROd), provided at the Inquiries[11]. It would also necessitate a variation of the BALB planning permission. This variation is being sought by NYCC as part of the section 73 application referred to above, which seeks a revised prioritisation of the junction at Leases Road and Low Street. NYP has

8 ID27.

9 BALB-10.

10 ID2 figure 2.

11 ID4.

confirmed to NYCC that it would object to the proposed direct crossing, preferring instead a staggered arrangement[12] (SROe), similar to that favoured instead of the SHFAGC.

3.6 Prior to the start of the Inquiries NYCC identified that schedule 6 of the SRO contains a typographical error. '*Low Street at a point 29 m north of the centre of the access of 'Ashville' for a distance of 151m in a northwesterly direction*' should read '*Low Street at a point 29 m north of the centre of the access of 'Ashville' for a distance of 130m in a northwesterly direction*'. In my judgement, this minor modification would be unlikely to prejudice the interests of anyone and it should be made in the event of the SRO being confirmed.

4 THE CASE FOR NORTH YORKSHIRE COUNTY COUNCIL (NYCC)

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

4.1 **The Compulsory Purchase Order 2012** (CPO)

4.1.1 The Office of the Deputy Prime Minister Circular 06/2004 (Circular 06/04) 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[13].

The Public Interest

Need

4.1.2 Key points to note regarding the genesis of the BALB through the plan led development plan system are:

a) The preferred route was arrived at following a process of consultation, and seeks to take advantage of the opportunity afforded by the A1(M) upgrade;

b) The preferred route is identified and supported through the relevant Development Plan and in particular Policy DP16, paragraph 5.4.1, and the Proposals Map of the Hambleton District Council Development Plan DPD[14], and Policy CP12, paragraph 4.3.15, of the Hambleton District Council Core Strategy[15];

c) The BALB has been included in all three of the North Yorkshire Local

12 PE1 figure 3.

13 Para 17.

14 BALB-21, 23

15 BALB-20.

Transport Plans, including the current 2011 Plan[16];

d) The Scheme is supported by the *National Planning Policy Framework* (the Framework) insofar as it promotes economic growth and sustainable development. The BALB was assessed against all relevant national and Development Plan policies in the determination of the planning application for it. The reasons given for the grant of planning permission[17] note: that the Scheme is proposed and safeguarded in the Development Plan; that any harm is outweighed by the public, townscape, health and economic benefits of the scheme; that the design and landscaping minimises adverse effects; that the development has been assessed for and appropriately mitigates flood risk; and, that there are no unacceptable adverse impacts of the BALB, which complies with the Development Plan and the Framework. These issues were expanded upon and considered in detail in the associated Committee Report[18];

e) Hambleton District Council were consulted on the planning application and considered the construction of the bypass to be part of the adopted Development Plan and a vital contributor to improvements in residential amenity, employment opportunities (including tourism), environmental improvements within Bedale town centre and should be strongly supported. There were only ten local objections to the planning proposal[19].

4.1.3 In summary, the planning history at strategic and scheme specific level discloses a long history of support for the proposals. The 2009 public consultation exercise disclosed 93.2% local public support for the Scheme[20].

4.1.4 The need and the route for the Scheme have been assessed through the plan process and need not be re-visited at this inquiry, and it is noted that no objector questions the need or benefits of the Scheme.

4.1.5 The issues that the BALB seeks to address include:

a) The settlements being bypassed have populations of 3,180 (Bedale), 2,280 (Aiskew), and 1,900 (Leeming Bar), and are currently part of the through-route of the A684, a busy route which severs the settlements, and creates safety issues due to numerous private accesses onto the busy road. The A684 in this area currently carries an annual average daily traffic flow (AADT) of approximately 14,500 (6% Heavy goods vehicles (HGVs). The alignment is in places below standard and poses difficulties for HGVs and causes delay on the network;

b) In a Do Minimum scenario the amount of traffic is predicted to rise by

16 BALB – 18 & 19.

17 BALB-10.

18 PE3 appendix 4.5.

19 PE3 appendix 4.5. para 5.4.

20 BALB – 09, piii.

61% by 2031. In the AM Peak in 2031 the delays are estimated to be 270 seconds at White Bear junction in Bedale, 192 seconds at Bedale Market Cross, and 48 seconds at Leeming Lane in Leeming Bar;

c) There will be additional negative effects as a result of worsening capacity issues at junctions on the A684 and potential future development;

d) Between 2006 and 2010 there were 67 personal injuries on the section of highway that would be bypassed;

4.1.6 The particular benefits of the BALB would include:

a) Compared to the Do Minimum scenario, the Scheme is predicted to reduce traffic on the existing A684 by 60% through Aiskew and 53% through Leeming[21], diverting over 12,000 daily movements from Aiskew. This would bring benefits through improved network speeds and fewer delays, but also by reducing traffic flows through the settlements. As an example, peak hour delays at the A684/B6285 junction in Bedale would be likely to reduce by around 3 minutes[22];

b) The economic benefits of the scheme were assessed originally using the Department for Transport's (DfT) *Transport User Benefit Assessment* programme. The Total Present Value of Benefits was assessed as £234.8m, against a present cost value of £38.4m giving a Cost Benefit Ratio as 6.12 at that time. As part of the Best and Final Funding Bid the appraisal was re-visited in light of changed methodology promoted by the DfT. On the revised basis the Present Value of Benefits was assessed as £134.7m, with a Benefit to Cost Ratio of 4.1. Objectively assessed and by comparison with other approved road schemes this represents very high value for money. The threshold for a 'very high value for money' classification in DfT guidance is 4;

c) The Scheme would deliver significant value to road users in terms of improved journey times, reliability and road safety. Wider community benefits would arise through mitigation of transport related environmental impacts, such as noise and air quality, for local residents and visitors to the settlements; and,

d) Bedale is implementing a Bedale Renaissance Market Town Masterplan, which the Scheme would further, and it would also provide easier access to the Yorkshire Dales[23].

4.1.7 The decision to grant planning permission for the BALB was not only a statement that the impacts of the scheme were acceptable, but was an endorsement of the major benefits resulting from the scheme. It was these benefits that the Development Plan promoted as adopted policy.

21 PE4 table 6.

22 PE4 Paragraph 4.4.

23 PE4 appendix 2.

The National Infrastructure Plan 2011[24] set out the Priority Programmes and Projects in Table C, which included the 20 schemes announced in December 2011. That announcement included the BALB.

4.1.8 The non-statutory objections raise concerns as to various environmental impacts, such as noise, air quality, landscape and flooding. These were amongst the environmental impacts which were assessed during the planning application process and found to be acceptable. The objective of the scheme is to divert traffic from the three settlements in question. Given that it is within the settlements that the majority of residential receptors are found, the scheme is likely to have net beneficial effects in terms of air quality and noise. The development was the subject of a Flood Risk Assessment (FRA), which concludes that there would be no material adverse impact on flood risk in the area[25]. Furthermore, the Environment Agency has raised no objection to the scheme on flood risk grounds. With the planned mitigation, which includes new soft landscaping, the impact on the landscape would be reduced to minor adverse in the long term.

Land requirements

4.1.9 The total land area affected by the scheme is around 35 hectares, which comprises some 29 hectares for which 'Title' is required and around 6 hectares for which 'Rights' are required. The Council has engaged extensively with the public and landowners through the planning process, and before and after making the CPO in October 2012. Circular 06/04 encourages such negotiation and discussion with landowners as compulsory purchase is intended as a last resort where agreement fails. The Circular notes that it is often sensible to initiate the formal procedures in parallel with negotiations.

4.1.10 The context of a road scheme is different from many other CPO scenarios in that the Scheme is linear, and therefore takes a small portion of a number of large landholdings, as is the case here. There are some 17 land ownerships directly affected. Whilst none of the required land or rights has yet been secured by private treaty, as a result of the negotiations and discussions since 2009 there are only two outstanding objections[26]. Due to the nature of the scheme the negotiations have focussed on suitable ways of addressing objectors' concerns related to the consequences of their land being taken. One of the remaining objections, JNW, raises pure compensation issues, and these discussions have been continuing. The objection of the TBE is concerned purely with the operation of the proposed SHFAGC.

4.1.11 There is no objection, whether statutory or non-statutory, that argues

24 BALB – 24.1

25 BALB-14, page 22.

26 Made on behalf of TBE and JNW.

against the principle or need for the BALB, or suggests an alternative land-take.

Availability of resources

4.1.12 A Major Scheme Business Case for the BALB was submitted in December 2008 to DfT and the scheme was granted Programme Entry in April 2010. Following the general election in 2010 there was a review of funding across the country, and a further Major Scheme Business Case was submitted as part of the Best and Final Funding Bid Offer in September 2011. The Scheme was considered through this competitive process and was accepted for funding by the DfT on 14 December 2011. The decision of the Secretary of State to grant funding is an endorsement of the benefits of the BALB.

4.1.13 The Scheme would have an overall project cost of around £42.1m. The DfT has committed to provide £35.9m of capital funding for the BALB. NYCC has resolved[27] to fund any additional costs, including those as a result of the risks of optimism bias, itself, and has confirmed this to the DfT in accepting the offer of funding[28]. This decision was reached after careful consideration of the potential financial risks and identification of the sources of funding, including allowing for a 44% cost overrun[29]. The Council has already committed substantial resources, over £2m[30], to the promotion of the Scheme.

4.1.14 The planning permission for the BALB is subject to a condition requiring commencement within 5 years of the grant of permission. That is by August 2017. The DfT funding was secured on the basis of the estimated programme submitted in the bid, which remains achievable and leads to a commencement in October 2014[31].

4.1.15 It is submitted that the SoS can be reassured that the financial implications of the Scheme have been carefully assessed and considered, including by the DfT through the bid process, and that sufficient resources have been identified to deliver the BALBa even allowing for a substantial cost overrun.

Potential impediments to implementation

4.1.16 The Council is not aware of any impediments to the Scheme that would mean implementation would be likely to be delayed. The only issues necessary to resolve in order for the Scheme to progress are the

27 BALB-04.

28 ID12.

29 BALB-03 – sections 6, 7, 8 and 9.

30 PE3 para 3.4.

31 BALB-02 p11 section 3.7 – which assumes the Orders being confirmed in April 2014.

confirmation of the CPO and SRO.

4.1.17 As already identified, planning permission was granted for a new truck stop for Exelby at Leeming Bar on 16 October 2012. This will necessitate a minor amendment to the BALB planning permission to allow for a revised prioritisation of the junction at Leases Road and Low Street. This does not require any consequential amendment to the CPO or the SRO. The Council considers there to be no reason why this minor amendment would not be granted.

4.1.18 The planning permission for the BALB was granted subject to 29 conditions. Whilst they have yet to be discharged, NYCC considers that there are no issues regarding those conditions which would be likely to prevent or delay the scheme.

4.1.19 Agreements are to be finalised with: the Highways Agency, to allow the BALB to be tied in to the recently constructed roundabouts at junction 51 of the A1(M); and, Network Rail, to allow the construction of both of the proposed bridges across the Wensleydale Railway. Not only is there is a reasonable prospect of the necessary consents being acquired, but in each case the issue has been discussed and considered and consent is agreed in principle. Environment Agency consents are required to work over or near a main river and to discharge surface water. Discussions concerning these matters have taken place with the EA and it has not raised any objections to the proposals. Formal consents will be sought during the detailed design stage and prior to construction. Whilst approval will be required from the Highway Authority concerning departures/relaxations from *Design Manual for Roads and Bridges* (DMRB) standards, as it has been kept informed throughout the preliminary design stage there is no reason to believe that these would not be approved. Modifications would be required to the SABIC pipeline crossed by the route of the BALB. NYCC has agreed a diversion route with SABIC for its pipeline and detailed design proposals are being drawn up, which will require SABIC's formal approval prior to the commencement of the works. There is no reason to believe that this approval would be likely to be withheld.

4.1.20 Circular 06/04 indicates that the Council should show that the scheme is unlikely to be blocked by impediments to implementation. It is submitted that this requirement is easily passed[32].

Conclusions

4.1.21 None of the titles or rights sought by the CPO has been shown to be unnecessary for the implementation of the BALB. 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 Scheme, which would provide significant economic, social and environmental benefits.

Human Rights

4.1.22 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*..."

4.1.23 Matters of compensation that will be dealt with by the Upper Tribunal (Lands Chamber) are not relevant matters of objection to the CPO itself. Section 13 of the ALA provides that objections relating exclusively to matters which can be dealt with by the tribunal assessing compensation may be disregarded. This applies to the objection raised by JNW that their land interest has been devalued, and to certain elements of the objection raised by TBE.

4.1.24 The objections to be considered by the SoS are those that go to the confirmation of the Order. The SoS is not concerned to re-open issues which have already been decided by a proper planning process. For example, a number of the non-statutory objectors are concerned with flood risk. These are matters that go to the planning merits and which have been considered and assessed through the planning application process. They are not part of the necessary balance for the confirmation of the CPO.

4.1.25 Article 1 of the First Protocol of the *Human Rights Act 1998 (as amended)* (HRA) is the article most obviously engaged by the scheme. This provides that:

'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'.

Clearly the effect of the CPO would be to deprive persons of their property, albeit with compensation as provided for by law. The land the subject of the CPO involves 17 different landowners and the plots typically comprise small elements of otherwise large land holdings. Around 95% of that land is agricultural, with a small area of railway land, one vacant industrial area adjacent to Leases Road and a small area of woodland. One plot of land is said to be in equestrian use (Plot 409) and two others have previously been said to be in 'recreational/garden' use (plots 100 and 101), although there is no planning history to that effect. The adverse impact of the CPO would fall on a small number of landowners, whereas the benefits of the Scheme would be accrued by a large number of residents and visitors to the area.

32 ID22.

4.1.26 Article 8 of the HRA provides that:

'everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of', amongst other things, '*public safety or the economic well being of the country, for the protection of health and for the protection of the rights and freedoms of others.'*

The CPO does not seek to acquire any dwellings. Insofar as there is some uncertainty in relation to CPO plots 100 and 101 with respect to whether recreational/garden land is to be taken, NYCC considers that it is neither unjustified nor disproportionate. The land in question is located some way from the curtilage of the associated dwelling house and the deprivation of it would not amount to an unreasonable interference with Article 8 rights. This is not disputed by anyone.

4.1.27 The land take the subject of the CPO would have a minimal impact on the properties concerned. The consequential interference with private property rights and interests is proportionate and does not outweigh the clear and compelling public interest in the works proceeding.

Conclusion

4.1.28 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 is proportionate and does not outweigh the clear and compelling public interest in the Scheme proceeding. Accordingly, NYCC respectfully requests the SoS to confirm the CPO modified in accordance with CPOa.

4.2 The Side Roads Order 2012 (SRO)

SRO as made

4.2.1 The SRO is required to enable NYCC to improve, raise, lower, divert or otherwise alter highways, stop up highways, construct new highways and stop up private means of access to premises which are required as a consequence of the construction of the BALBa and finally to provide new private means of access to premises.

4.2.2 In accordance with sections 14(6) and 125(3) of the HA:

a) No order authorising the stopping up of a highway shall be made or confirmed unless the Minister is satisfied that another reasonably convenient route is available or will be provided before the highway is stopped up; and,

b) No order authorising the stopping up of private means of access to premises shall be made or confirmed unless the Minister is satisfied that no access to the premises is reasonably required or that other

reasonably convenient means of access to the premises is available or will be provided.

NYCC has demonstrated that these requirements are met in all cases.

4.2.3 The SRO includes the stopping up of 5 areas of highway.

1) North End, A684, would be stopped up from a point 65 metres southeast of the centre of the access to Bedale Golf Club for a distance of 365 metres in a northwesterly direction. It would be replaced by: new sections of highway (A and B) linking the A684 to the bypass at a roundabout junction; and, a bridleway along the redundant existing carriageway (C).

2) 2 sections of Leases Road would be stopped up: the first at a point 117 metres northwest of the centre of the junction with Conygarth Way northwestwards for a distance of 5 metres; and, the second at a point 165 metres southeast of the centre line of the junction of the southern access to Fairfield Farm southeastwards for a distance of 5 metres. They would be replaced by an improved section of highway along a re-aligned route linking Leases Road to the bypass at a new roundabout and the stopping up would facilitate the provision of new sections of bridleway (G and E).

3) Low Street would be stopped up from a point 29 metres north of the centre of the access of 'Ashville' for a distance of 130 metres in a northwesterly direction. A new section of highway (K) would link the section of Low Street to the north of the bypass to the new Leases Road roundabout. A crossing point would be linked by bridleways to the sections of Low Street to the north and south of the bypass for the use of non-motorised traffic. To the south of the Bypass motorised traffic wishing to travel north would follow a route south along Low Street to its junction with Leases Road and then north to the new roundabout.

4) Northallerton Road, A684, would be stopped up from a point 15 metres east of the centre of the eastern access to Holmefield Farm for a distance of 442 metres in a northeasterly direction. It would be replaced by new sections of highway (T and V) linking the A684 to the bypass via a new roundabout. The stopping up would also facilitate the provision of bridleways for non-motorised traffic (S and U).

4.2.4 The SRO would also make provision for the stopping up of 13 private accesses:

1) Access to field OS 3876 off North End (Plan no. 1- a) would be replaced by alternatives provided off the new section of North End either side of the bypass (Plan no. 1 - 1 and 2);

2) Access to field OS 5563 off North End (Plan no. 1- b) would be replaced by an alternative provided in a similar position off the new section of North End (Plan no. 1- 3);

3) Access to Bedale Golf Club off North End (Plan no. 1- c) would be replaced by an alternative provided in a similar position off the new section of North End (Plan no. 1- 4);

4) The access track from Sand Hill Farmstead to Scurf Beck adjacent to Sand Hill Plantation for a distance of 92 metres (Plan no. 2- d) would be replaced by the SHFAGC and RWAT, with new access points to fields OS 7200 and 9434 along the associated accommodation track (Plan no. 2- 5 to 11);

5) 2 accesses to a field, one off Leases Road link road (Plan no. 4- n) and the other off Leases Road (Plan no. 5- e), would be replaced by an alternative off the improved section of Leases Road (Plan no. 5- 15);

6) 2 accesses to field OS 0040, one off Leases Road link road (Plan no. 4- m) and the other off Leases Road (Plan no. 5- f) would be replaced by an alternative off the improved section of Leases Road (Plan no. 5- 16);

7) Access to field OS 3600 off Leases Road (Plan no. 5- g) would be replaced by an alternative off the improved section of Leases Road (Plan no. 5- 17);

8) Access to field OS 5900 (Plan no. 6- h) would be replaced by an alternative access off the new section of highway linking Leases Road with Low Street (Plan no. 6- 18);

9) Access to field OS 9000 off Low Street (Plan no. 6- i) would be replaced by an alternative access off Low Street (Plan no. 6- 20);

10) An alternative to a 270 metre section of the track between Low Street and Ham Hall Lane (Plan nos. 6/7- j) would be provided by an access off Low Street (Plan no. 6- 19) leading to a number of new accesses (Plan nos. 7- 21 and 22, 8- 23, 24, 25 and, 9- 26); and,

11) Access to Broadacres off the Northallerton Road (Plan no. 10- k) would be replaced by an alternative access off the new highway (Plan no. 10- 29).

4.2.5 At Aiskew Grange Farm the bypass would bisect a number of agricultural fields. The SRO provides for new means of access to serve the land on the opposite side of the bypass relative to the farmstead. That is accesses 12 and 13 on Schedule 3 and Site Plan no. 3 of the SRO. In addition, there are intentions, outside of the SRO, to improve an existing access[33] close to Throughway House. Together these provide reasonably convenient access routes to the Aiskew Grange Farm land on the northern side of the bypass. No party suggests otherwise and that is clearly the position and understanding of the landowner/occupier, the Wilsons[34] (TW), who unconditionally withdrew their objection to the SRO as made prior to the start of the Inquiries.

4.2.6 In addition, other accesses would be provided to parts of fields isolated by the bypass: OS 4365 (Plan no. 5- 14) and OS 2700 (Plan no. 10- 27 and 28), which would contain a surface water attenuation pond.

33 ID3 para 1.4 refers.

34 Owners AN and RA Wilson. Occupiers AN, MA, RA and SL Wilson.

SRO modifications-Aiskew Grange Farm

4.2.7 NYCC considers that in the future the existing access close to Throughway House, referred to above, may be affected by the extension of the local access road (LAR) associated with the A1 Leeming to Barton upgrade scheme. The LAR proposals have yet to be worked up in detail and incorporated into Orders for the A1 scheme. In light of potential future uncertainty linked with the LAR, NYCC now proposes an at-grade crossing of the bypass, at Chainage 1800, between Aiskew Grange land on the southern and northern sides of the bypass route (SROd). This proposal was discussed with TW and their agents and they have confirmed that the arrangement is acceptable[35]. This access would require a modification of the SRO, and relevant changes to the Schedule and Site Plan no. 3 have been provided for the SoS's consideration[36].

4.2.8 In situations such as this the set back of an access gateway from the carriageway would normally be 15 metres, in order to allow vehicles to clear the carriageway when they pull in. However, at this crossing it is only possible to accommodate a set back of 7 metres within the existing boundary of the CPO. Whilst this particular arrangement has not been the subject of a Road Safety Audit, NYCC considers that this straightforward crossing would operate safely on a standard assumption that the gates are open, and the accesses have full lines of sight. It is also assumed that if any additional land is required to extend the entrances, it could be secured on a consensual basis and so no alteration is proposed to the CPO. A minor amendment would be required to the BALB planning permission under section 73 of the 1990 Act to allow this crossing to be formed and an application has been submitted for that purpose[37].

4.2.9 It is likely that NYP would object to the proposed direct crossing, preferring instead a staggered arrangement[38] (SROe), similar to that favoured for the SHFAGC. TW have also confirmed their acceptance of a staggered crossing[39]. However, NYCC does not consider that this amendment is essential and it would result in crossing vehicles spending longer on the bypass. If it were required by the SoS, it would be necessary to make changes to the SRO and would also require another section 73 amendment to the planning permission[40]. Nevertheless, there is no indication that those amendments would not be deliverable.

4.2.10 As no private means of access is being stopped up the requirement to demonstrate, under section 125(3) of the HA, a reasonably convenient alternative access to the premises is not engaged. It is in any event

35 ID3 para 1.8 and ID29.

36 ID4.

37 ID3 para 1.9.

38 ID2 figure 3.

39 ID29.

40 BALB-10.

plainly met as confirmed by the agreement to the proposal of the landowner.

Conclusions

4.2.11 There is no dispute that the SRO as drafted meets the statutory tests. However, in light of potential future uncertainty linked with the A1 Leeming to Barton upgrade scheme, NYCC is promoting a modification to the SRO in the form of an at-grade crossing of the bypass, at Chainage 1800, to serve Aiskew Grange Farm (SROd). Whilst NYP object to arrangements such as this, preferring instead a staggered crossing (SROe), which would be acceptable to TW, this is not a modification supported by NYCC. Accordingly, NYCC respectfully requests the SoS to confirm the SRO modified in accordance with SROd.

5 THE CASES FOR THE OBJECTORS

The gist of the material points made by objectors in written and oral submissions:

5.1 **Trustees of Bedale Estate** (TBE)

5.1.1 TBE's statutory objection was lodged against the CPO. The proposed route would sever farming land owned by TBE with a very substantial consequential impact on farming activity. During discussions with NYCC, which have taken place over a number of years, TBE has consistently requested that an underpass be provided along the line of the existing track to alleviate the considerable disruption and extra cost to the farming operation.

5.1.2 NYCC has ignored this request on the basis that the provision of a direct underpass would be more expensive than the currently proposed SHFAGC and RWAT coupled with a compensation cost due to the severance of the existing route. The Council's position has been predicated therefore purely on financial grounds, which are completely misconceived.
TBE considers that the cost of the SRO alternative accesses when added to the cost of compensation would be significantly in excess of the cost of the direct underpass. The Jacobs' Design Options report (Jacobs' DO report) provides a summary comparison of overall costs for the crossings included in the SRO as well as those advocated by TBE as SROa and SROb[41].
The Jacobs' cost for the construction of the diverted track does not provide for a bituminous surface. If it did the cost would be in the region of £250,000. Furthermore, the acquisition of land, including compensation, is likely to be significantly higher than the budget allowed for by NYCC. Even if this were not the case, any additional cost arising from an

41 PE6 appendix KM01-Jacobs' Bedale, Aiskew and Leeming Bar Bypass Design Options for Sand Hill Farm Crossing report, September 2009, table 1 page 14.

underpass option should be borne by NYCC in order that the farming operation, with particular reference to livestock movements and arable operations, can be undertaken in the most sensible manner in the future.

5.1.3 In its letter of objection TBE indicated that the proposed diverted access track, which would create a diversion from the existing route of around 1.4 km[42], would add to the cost of running the business and it does not regard this as acceptable in principle. Furthermore, it considered that the proposed track would be neither wide enough nor sufficiently metalled to be adequate for the diverted farm traffic. Land in addition to that identified by the CPO may also be required to allow large vehicles to turn beneath the bypass at the grade-separated crossing. However, TBE confirmed at the Inquiries that it now considers, in the context of section 125(3) of the HA, the proposed access track via Rectory Wood Bridge (RWAT) can be regarded as a reasonably convenient means of access to its premises as an alternative to the access that is proposed to be stopped up.

5.1.4 Nonetheless, TBE maintains that a grade-separated crossing broadly along the line of the current access track would be far more convenient for them, and would have far less deleterious effect on the farming activities and operations that are carried out on the affected land. NYCC's position, put simply, is that these benefits, which are not denied, do not outweigh the 'significant additional costs' that the provision of an underpass or overbridge would entail. Nonetheless, the comparison of option costs included in the Jacobs' assessment of the alternative design options for the layout of the existing Sand Hill Farm track where it crosses the proposed bypass, shows that, in overall cost terms, there is little to choose between the access track via Rectory Wood Bridge and the provision of an underpass or overbridge on the existing line. Moreover, no additional evidence has been brought forward by NYCC to support its 'significant additional costs claim'. For this reason TBE disputes the grounds upon which NYCC continue to refuse to countenance the provision of a grade-separated crossing along the line of the existing track, and urge the SoS to conclude that an underpass or overbridge (SROa) would be a far more convenient, and yet no less cost effective, alternative access that ought therefore to be included in a re-drafted SRO.

5.1.5 TBE recognises that this would mean a delay in the scheme being taken forward. However, this should be given little weight, as TBE has spent the last 4 years advancing this suggestion with NYCC. Furthermore, as NYCC acknowledge, such a delay would present an opportunity to the relevant authorities to explore the desirability of a single, shared grade-separated crossing being provided which would allow the at-grade crossing that is now proposed to be provided at chainage 1800[43] of the bypass also to be dispensed with.

42 Inspector's note: TBE and NYCC clarified that the diversion would be around 1.3 km.

43 Referred to at para 4.2.7 above.

5.1.6 The proposed at-grade crossing would not be acceptable for the majority of the animal/vehicle movements for which the existing track is used. The provision of such an at-grade crossing would be contrary to guidance in DMRB TD41/95, which states that '*direct vehicular access on to trunk roads shall be avoided as far as practicable*'. The DMRB requires single, two-lane carriageways of this sort '*to be designed with the objectives of safety and uncongested flow in mind.*' Yet, whilst agreeing that a scheme without an at-grade crossing of the bypass would be the best solution[44], NYCC has persisted in seeking confirmation of an Order that proposes the adoption of an incontrovertibly sub-optimal solution.

5.1.7 At all stages of the Order making/Inquiries process, NYCC has fallen back on the claimed assistance that such a crossing would provide to the landowner. However, TBE has made clear, over many years, that it sees no assistance at all being provided to it by the at-grade crossing. TBE considers that its tenant, and others working on his behalf, would expose themselves to an avoidable risk of injury and/or of occasioning a serious collision on the bypass, if they sought to make operational use of the proposed at-grade crossing.

5.1.8 The BALB would be subject to a speed limit of 100 kph and the section in the vicinity of the SHFAGC, as it is generally level and straight, would be likely to be subject to overtaking manoeuvres. TBE calculates that the average gap between vehicles passing the SHFAGC on the bypass would be around 4 seconds. This is on the basis that typically 80% of daily traffic flow occurs between 0700hrs and 1900hrs, and an AADT of 13,000 vehicles per day cited by the 2009 Jacobs Road Safety Audit[45]. Seasonal tourist traffic may reduce the gap still further. TBE does not consider that there would be sufficient crossing time for the SHFAGC to be used safely. It should be borne in mind that the identified cost difference between the SRO and SROa crossing options would be likely to be materially eroded by the cost of even a single accident[46].

5.1.9 Why then should TBE have this unwanted assistance thrust upon them, and why should you not recommend the modification of the SRO to remove this manifestly less than best proposal? After all NYCC indicated at the Inquiry that the at-grade crossing could be removed without difficulty and had only been included to help meet TBE's concerns.

5.1.10 Furthermore, the relevant authorities are not of one mind on the type of at-grade crossing that they would support. NYP believes that the crossing included in the Order is flawed, and NYCC has not been persuaded that the staggered alternative suggested by NYP should be advanced in preference to its own proposal.

44 ID2 para 5.7.

45 PE5 appendix KM01 appendix D page 3.

46 PE5 para 5.22.

Conclusion

5.1.11 Notwithstanding that TBE's statutory objection was lodged against the CPO, it invites the SoS to conclude that the SRO should not be confirmed on the basis that it fails, without proper or sufficient reason, to make provision for TBE's land severed by the bypass to be accessed via a grade-separated crossing along the line of the existing track. If the SoS is not persuaded to take up this invitation, TBE's submission is that the SoS should confirm the SRO subject to a modification SROb; deleting the SHFAGC, which is currently proposed by NYCC to 'augment' the sub-base access track via Rectory Wood Bridge. The RWAT on its own would provide a reasonably convenient alternative to the existing track, thereby meeting the test set out in section 125(3) of the HA.

5.2 Mr J Wilkinson & Mr N Wilkinson (JNW)

5.2.1 The proposed scheme has blighted our property. That is, the value of our farm has been significantly deflated. The market value of the whole property would be affected particularly by the visual and physical impact of the proposed embankment and the close proximity of the roundabout to the farmstead. We would welcome the opportunity to discuss further with NYCC a purchase under statutory blight.

5.3 Mrs K Ellam

5.3.1 ME's objection was made against both the CPO and SRO.

5.3.2 The proposed Scheme would harm the open countryside and the environment as a result of its physical and visual impact. These impacts would not be adequately mitigated by the proposed planting. Large amounts of litter are strewn along the verges of the A6055 Local Access Road (LAR), between Leeming Bar Services and junction 51 of the A1 north bound slip road. This would also be likely to happen along the proposed bypass, adding to its environmental impact. In addition, once the bypass is built there may be subsequent planning applications to develop housing or industrial units on the outskirts of Bedale, Aiskew or Leeming Bar, spreading out to the bypass.

5.3.3 Local residents have recently had to tolerate all the disruption associated with the A1 upgrade and would have to put up with even more while the proposed bypass is built. The completed Scheme would create noise, fumes and light intrusion for neighbouring properties. We already have to tolerate constant and intrusive noise from the A1 and the A6055.

5.3.4 The current route would also have serious effects on farming by dividing farms, with no provision for farmers to access land severed from their farmsteads by the bypass. Furthermore, as a result of the Scheme, many visitors to the area would be likely to bypass Bedale and this would harm the local economy.

5.3.5 NYCC has not re-assessed the effects of traffic flow on the communities of Bedale, Aiskew and Leeming Bar following the completion of the A1 upgrade, which has also provided the A6055 Local Access Road. Re-assessment may identify an entirely different need. Furthermore, the Highways Agency has confirmed that the A1 Leeming to Barton Improvement Scheme will start in 2014. As part of this scheme the A6055 would continue north from Leeming to Catterick and beyond. Traffic travelling to the north of Bedale from the south and east will be able to use this route to bypass Bedale, making this section of the proposed bypass redundant. The extension of the LAR together with the construction of the proposed bypass is unnecessary duplication incurring vast expense. Furthermore, the proposed Scheme would not relieve traffic levels either west bound on the A684 or through Bedale town centre. The intersection between the A684 and the B6285 to Masham, in Bedale High Street, is the cause of much congestion and the BALB does not make adequate provision to address this.

5.3.6 NYCC has a duty to ensure that it does not embark on a costly bypass that we cannot afford when it pleads that it does not have sufficient funds to pay for the maintenance and repair of all of the County's existing road network. Snow and ice during the winter months require huge expenditure and many routes go untreated. This situation would be worse once the bypass is built, as it would take priority.

5.4 **Mr K Cooper** (MC)

5.4.1 MC's objection is to both the CPO and SRO.

5.4.2 The Flood Risk Assessment[47] indicates that whilst the bypass would increase surface water runoff, the provision of attenuation ponds would enable those increased flows to be discharged without resulting in an increased flood risk elsewhere. The Environmental Statement submitted in support of the BALB planning application indicated that surface water runoff from the bypass would be directed to four balancing ponds. However, the design of the Scheme was subsequently amended such that the provision of a pond to attenuate surface water flows from the western end of the proposed bypass prior to discharge into Bedale Beck was removed. Those flows would now be discharged direct to the beck.

5.4.3 Based on modelling around the proposed Bedale Beck bridge, NYCC has indicated that there is no likelihood of increased flood levels/flood risk downstream in Bedale. However, the levels in Bedale Beck are greatly influenced when rain falls continuously for two or three days. Consequently bypass runoff calculations should be based on a 48 hour storm and not the 1 in 100 year 24 hour storm used by NYCC. Regard should also be had to the potential for climate change to increase future runoff rates. Furthermore, the centre of Bedale near to the old A684 road

47 BALB-14.

bridge is prone to flooding, as are: the metalled public footpath running downstream past the weir; the area known as 'The Harbour'; and, the public footpath through the cutting that runs adjacent to the rear gardens of Brookside Avenue. Therefore, additional flows directly into Bedale Beck at times of storms are to be avoided at all costs. The attenuation pond which was deleted from the design should be reinstated to serve the western end of the bypass, thereby giving residents peace of mind, both when the scheme is under construction and in operation. It is noted that in comparison with the western end of the bypass (drainage network 1) a lower level of surface water runoff would be associated with the eastern end of the highway (drainage network 4) and yet it would be served by an attenuation pond.

5.5 **Brookside Avenue residents** (BAr)

5.5.1 BAr object to the Orders on the basis that storm water from the proposed bypass would be discharged directly to Bedale Beck, thereby increasing the risk of flooding the detached properties in Brookside Avenue and part of Brookside Close, Bedale.

6 REBUTTAL BY NORTH YORKSHIRE COUNTY COUNCIL

6.1 **Trustees of the Bedale Estate** (TBE)

6.1.1 ***CPO***

6.1.1.1 The duly made objection of TBE was only made as an objection to the CPO[48] and it must be considered as such, as opposed to an objection related to the planning merits, and in the context that compensation will be payable under the compulsory purchase code. The issue is whether or not the CPO is justified in the public interest applying the guidance in Circular 06/04.

6.1.1.2 However, the objection raises no issue in relation to the need, benefits, alignment or delivery of the bypass scheme, and accepts implicitly that all of the Order land is required to deliver the BALB. Insofar as it raises a relevant objection it can only relate therefore to gauging the compelling case in the public interest. In this context it is submitted that the public interest benefits of the scheme are extremely weighty considerations, unchallenged by any party, and with full support from the local planning authority, funding granted by the DfT on the basis of a very strong business case, and with overwhelming public support.

6.1.1.3 Set against this, the TBE objection can in effect, be distilled to two points: it has concerns as to the safety of the at-grade crossing; and, it would

48 CD7 letter 11 December 2012.

prefer it if the grade-separated crossing were on the alignment of the existing farm track and not diverted. These two points give rise to very little substantive objection, if any, to the matter before the SoS, that is whether to confirm the CPO and the SRO. In terms of the justification for the Scheme as a whole, the suggestion that the at-grade crossing of the bypass within Sand Hill Farm estate would be unsafe is a small point and one already considered through the planning process. It is submitted that any such concerns would have little weight in the overriding public interest balance. The second point raises no issue of public interest. It simply raises a private issue that is capable of being addressed through the compensation principles relating to severance and injurious affection. The question for the SoS is whether the Orders, which are necessary to deliver this Scheme, are justified. On the evidence it is submitted they clearly are. Nevertheless, TBE deal with the points raised.

Highway safety - the SHFAGC

6.1.1.4 The at-grade crossing forms part of the scheme for which planning permission has been granted. Through that process the acceptability of the crossing was tested, consulted upon, including with NYCC as local highway authority and NYP, neither of whom raised any concerns at that time in relation to the SHFAGC. The planning consequences of the Scheme have therefore been assessed as acceptable and planning permission granted for the SHFAGC.

6.1.1.5 It is unsurprising that permission was granted. The proposal has been subject to a number of safety appraisals and has evolved through a long and consultative design process. The objector does not assert that the number of movements on either the bypass or the access were understated in those appraisals. Previous assessments include:

a) 2005 Mouchel Parkman – Road Safety Audit. The assessment was made on the basis of all farm traffic using the at-grade crossing, that is with no grade-separated alternative. It disclosed no concern other than left turn visibility which was easily soluble. TBE has misunderstood the output of the Audit. The Audit considered all aspects of the use of the crossing including the straight across movement. At that stage the at-grade crossing was the only proposed means of access across the bypass, and it was only in relation to left-turn movements that any potential issue was raised[49]. This issue required only a minor design correction in widening the width of the access track, and there was no suggestion of a need for a grade-separated crossing.

b) 2009 Jacobs[50] – this was a thorough re-appraisal brought about by concerns of the landowner. It assessed safety based upon the landowner's own information. It is incorrect to suggest that the question of cost had any impact on the assessment of safety. The

49 PE6 appendix KM01, p3, section 2.0, 3rd para.

50 PE6 appendix KM01, App. D.

safety assessment was entirely independent of cost, and the Design Options document makes this clear[51]. The conclusion of the safety assessment is that with appropriate design and mitigation it would operate safely[52].

6.1.1.6 Against these assessments together with the planning permission consultations and process TBE sets no evidence of an adverse highway safety impact. At the Inquiries TBE agreed:

a) It had not undertaken or commissioned a Safety Audit of the proposed at-grade crossing;

b) That the guidance in TD41/95[53] applies to trunk roads, and an alternative to a direct access to a trunk road would be via the local highway network. The Scheme is not a trunk road, but part of the local highway network;

c) That in terms of the design of the access it complied fully with the standards in TD41/95, and that visibility would be well in excess of the maximum standard;

d) That if its interpretation is right that highway authorities should consider more costly designs than at-grade[54], this proposal accorded with that interpretation as NYCC had gone on to consider a more costly design solution through the proposed RWAT. This consideration followed explicitly from a request made by TBE to consider in addition to the at-grade crossing "some form of private track with underpass or bridge" to meet its concerns that related to access for heavy machinery and livestock[55];

e) That the Scheme accorded entirely with TA 57/87[56] by providing for livestock movements safely.

6.1.1.7 Thus the objector accepts that the SHFAGC accesses can be designed to comply with the relevant visibility standards, and that the bypass at the proposed crossing point is flat and straight with excellent visibility. In design terms therefore this is a safe access. TBE offers no positive case in support of its safety concern.

6.1.1.8 It is recognized by NYCC that, in general, it is not desirable to introduce additional accesses onto trunk roads and this principle at a general level may be carried across. However, TBE presents no evidence to suggest that the intended access and how it would be used is unsafe. Its argument appears to focus on the technical gaps in traffic flows along the bypass, and a suggestion that Jacobs had misunderstood this. It is plain

51 PE6 appendix KM01, p13.

52 PE6 appendix KM01, page 13 section 6.0 para 3 and 4.

53 BALB-28.

54 PE6 para 4.21.

55 PE6 appendix KM01 appendix A.

56 BALB-29.

from a fair reading of the sentence relied on by TBE[57] that Jacobs were fully aware that the predicted flow was an average of 4 vehicles per minute in each direction. Jacobs are of course well aware of the concept of average daily flows. But, anyway, TBE's analysis rather misses the point. Theoretically, there will be an average gap, which NYCC explains statistically would be 11.25 seconds[58], but such a consideration of theoretical gaps is of little assistance, as in reality such regular spacing does not arise as vehicles bunch together.

6.1.1.9 It should be noted that NYCC for the purposes of addressing the highway safety issue at these Inquiries expresses no contrary view to the farm vehicle movement figures presented by TBE. On these figures, in relation to the livestock enterprise, there is a total of 2040 crossings a year, of which a minimum of 1,460 (72%) are crossings made by pick-up; a vehicle type that would regularly use the local highway network. In relation to the arable enterprise there would be around 700 crossings a year. The facts are that the access would be predominantly used by road going pick-up type vehicles by drivers familiar with the arrangement and benefitting from excellent visibility. The at-grade crossing would not allow movements of animals 'on the hoof', as it would purposefully include cattle grids on both of the opposing bypass access points. In those circumstances there is no substantiated safety concern. The judgement for the driver is an eminently safe one, reinforced by the availability of the RWAT. Certainly, TBE has produced absolutely no evidence to suggest that such vehicle movements, as exist frequently on rural 'A' roads, give rise to a particular risk of an accident[59], and there is no reason why they should. By contrast, the statistics referred to in NYCC evidence[60] which refer to a minor road crossing a rural 'A' road with greater flows on each limb than at the proposed crossing suggest no material highway safety issue.

6.1.1.10 It is important not to lose sight of the reality of the situation. The bypass will form part of the A684, a rural classified 'A' road with many public and private crossing points. The access under consideration will be designed to the maximum design standards and beyond, and be very lightly used by private vehicles that are regular users of the junction. It is far from objectionable on grounds related to highway safety. There is no reason for the SoS to seek to go behind the planning permission and re-open this issue in relation to the Orders. The objector raises no issue with the need, alignment or benefits of the scheme, or the safety or usability of the RWAT alternative provided.

6.1.1.11 The position of NYP has not been explained by the attendance of any officer. NYP was of course fully consulted on the planning application, and

57 PE5 appendix KM01 appendix D page 5: Assuming an AADT of 13,000 vpd on the bypass gives an average of 4 vehicles in each direction (1 every 15 seconds).

58 ID2 para 5.1.

59 PE6 appendix KM01 appendix D page 4.

60 ID2 para 5.3.

had cause to consider this specific stretch of road in considering an observation post. No issue was raised concerning the SHFAGC. The concern since raised is not with the principle of an at-grade crossing. NYP has confirmed that an at-grade staggered solution is acceptable. NYP's position does not therefore support TBE, who finds itself in disagreement with NYP on this issue. The concern is that where there is a direct crossing, a user of the access track may fail to appreciate that there is a decision-point coming up. NYCC does not agree that this is a concern. This is not a public crossing, but one for estate workers only. In NYCC's opinion there is no substantive safety benefit in the staggered crossing, would be likely to result in farm traffic spending longer on the bypass, and it is not supported as an amendment to the SRO.

6.1.1.12 In conclusion, it is submitted that there is no substantiated highway safety concern with the proposed SHFAGC. In any event, there is available at all times an alternative grade-separated crossing, which would be suited to slow moving farm traffic, such as animals 'on the hoof', and in relation to which no safety concern is expressed. The Scheme therefore unquestionably provides for the safe crossing of the bypass. The combination of the SHFAGC and RWAT was included to meet concerns raised by TBE, who sought to have some form of grade-separated access across the bypass. The Council considers, as confirmed through the grant of planning permission, that there is no unacceptable impact on highway safety through appropriate use of the at-grade crossing. It is a choice for the landowner whether he wishes to use the at-grade crossing, and it was included to help meet its concerns. It could be removed without difficulty.

Alternatives- SROa

6.1.1.13 TBE suggests that the proposed alternative access arrangements resulted from NYCC's desire to minimise costs. It is true that the Council took a range of matters into account in designing the Scheme, including the need to ensure value for money. TBE accepted at the Inquiries that cost minimisation and value for money were relevant matters to scheme development[61]. The Jacobs design consideration was clearly that the at-grade proposal was acceptable on safety grounds[62], but that a combined solution including the SHFAGC and RWAT presented the best overall value for money[63] and reflected issues raised by relevant landowners. The SHFAGC would have a bituminous surface for the first 15 metres leading off the bypass. Whilst the RWAT would have a granular stone surface, it would not be constructed to a lesser standard than the existing track[64]. Furthermore, the swept path analysis provided by NYCC shows that it would be possible to accommodate likely vehicle turning

61 Cross examination of Mr Martin by NYCC.

62 PE6 appendix KM01-Jacobs' Bedale, Aiskew and Leeming Bar Bypass Design Options for Sand Hill Farm Crossing report, September 2009, page 13.

63 PE6 appendix KM01-Jacobs' Bedale, Aiskew and Leeming Bar Bypass Design Options for Sand Hill Farm Crossing report, September 2009, page 14.

64 SoC page 41.

movements at the Rectory Wood underpass within the land the subject of the CPO[65]. No swept path analysis supporting a contrary conclusion has been provided by TBE.

6.1.1.14 If the at-grade solution is considered acceptable in safety terms, then TBE agrees that the combined SHFAGC/RWAT solution did offer the best value for money. In terms of costs of delivery, it is apparent from the figures provided that the construction cost of the RWAT, even with a bituminous surface throughout, would be far lower than an additional underpass or overbridge[66], and this has not been disputed.

6.1.1.15 Where TBE is mistaken, however, is to suggest that the same consideration is before the SoS on these Orders. It is not. The objector does not promote a scheme that involves lesser land-take or lesser interference or suggest that the Scheme could somehow be delivered without the compulsory purchase of their interest. The Objector does not put forward alternative construction costs for the options it suggests is preferable. Nor does it put forward any assessment of the additional environmental impacts or planning acceptability of the alternative. As a result of that previous analysis the Scheme was taken forward, and progressed through the planning process and to this stage through the CPO and SRO processes.

6.1.1.16 To put forward an alternative now would have an entirely different cost (financial, environmental, temporal) comparison, and one which the objector has not even begun to address. The revised proposals would have to be consulted upon, drawn up and may have consequent repercussions for other landholding, for example whether to provide a combined underpass in relation to the adjoining Aiskew Grange Farm. TBE accepts that in considering any comparison with alternatives it would be relevant for the SoS to consider the implications of delay in economic and transport terms, including the delay in delivering a solution to the congestion and safety issues along the existing A684 through the relevant settlements. NYCC has presented unchallenged evidence of the shortcomings and accident record of the section of the A684 to be bypassed, including that there have been 67 personal injury accidents in 5 years[67]. The evidence is that, at all times in developing the Scheme, the proposed option was the best in the public interest. In the context of these Inquiries, where compensation issues fall to be put to one side, the balance is compelling in favour of confirmation of the CPO.

Alternatives - SRObs

6.1.1.17 It is common ground that as a result of the RWAT, for which permission has been granted, and which is included within the CPO and SRO, access

65 PE1 para 7.1.

66 PE6 appendix KM01 page 14.

67 PE4 para 2.5.

can be taken across the bypass to serve the landholding. It is also common ground that this is entirely safe, and TBE raises no concerns as to its usability[68]. There has been no evidence that it would not serve every operational need of the holding, and NYCC has shown that on the contrary it does.

6.1.1.18 TBE accepted at the Inquiries that its objection only related to the CPO and also that it was not open to it to broaden its extent. Nevertheless, TBE's final submissions refer to the decision of the SoS relating to the SRO. In the circumstances, it appears that in substance TBE is not objecting to the CPO or the balancing exercise under that statutory procedure at all. Even if it were, it is accepted in effect that any such objection would be capable of being fully overcome through a modification to the SRO in omitting the SHFAGC. If that modification were made, which TBE accepts it can be, then the only issue said to weigh against the CPO, highway safety, would be resolved entirely.

6.1.2 ***SRO***

6.1.2.1 Whilst the CPO requires a compelling case in the public interest, the position relating to the SRO is different. There is no substantive objection to the stopping up element of the SRO. The objection arises purely in relation to the provision of the new means of access. At these Inquiries TBE accepted without reservation[69] that the RWAT would be a reasonably convenient alternative to the access to be stopped up and this is also NYCC's view. It is submitted that where the landowner is raising objection yet confirms explicitly and on advice that it accepts that the alternative provided by the SRO would be reasonably convenient that this does not rationally leave open any alternative conclusion.

6.1.2.2 It is not disputed therefore, that the statutory test of section 125(3) of the HA is met, in that the proposed RWAT would be a reasonably convenient alternative. There is no explanation in TBE's objection as to why therefore the SRO should not be confirmed, and no reference to any statutory provision, guidance, or caselaw which supports its position. It is submitted that in these circumstances there is simply no good reason put forward for not confirming the SRO as made.

Conclusion

6.1.3 The combination of the two crossings included in the SRO would provide a reasonably convenient means of access to the farm, and is safe. The process leading to the grant of planning permission for the BALB considered all questions of highway safety. It remains unclear how the objector says this issue should weigh in the necessary balancing exercise for confirmation of the Orders.

68 Cross examination of Mr Martin by NYCC.

69 ID16 first para.

6.1.4 The staggered alternative, SROc, confirms that NYP has no objection in principle to an at-grade crossing. It does not offer any substantial improvement over the proposal. It is not therefore, necessary to make this modification as the original proposal meets the relevant statutory tests.

6.1.5 If the SoS disagrees with the SHFAGC then there is no good reason not to confirm the CPO, and modify the SRO so that the at-grade crossing is not provided (SROb). Such a modification which involves purely the omission of an additional access as part of the delivery of the same scheme under the same powers and leaves unaffected the land-take is not substantial, and in any event has been the subject of considerable discussion with the landowner within and without the Inquiries.

6.1.6 In summary it is open to the SoS:

a) To confirm the CPO, subject to the CPOa modification, on the basis that in substance no objection is raised to it;

b) To confirm the SRO without modification as it is agreed by all parties that the RWAT provided is a reasonably convenient alternative access;

c) To confirm the SRO with a modification to omit the SHFAGC (SROb) or introduce the staggered crossing (SROc). However, it is submitted that there is no basis to do so when the statutory tests are met by the SRO.

NYCC advocates a) and b).

6.2 **Mr J Wilkinson & Mr N Wilkinson** (JNW)

6.2.1 The objection of JNW asserts that the value of the farm is significantly affected. This is a matter of compensation as opposed to a relevant matter for these Inquiries. NYCC has continued discussions with JNW. No evidence in support of the objection has been received, and NYCC will continue outside of this inquiry process to seek to agree the appropriate level of compensation.

6.3 **Mrs Ellam** (ME)

6.3.1 The planning merits of the scheme, including potential environmental impacts, such as in relation to noise, air quality, landscape and lighting, were fully considered through the planning process[70]. The majority of the predicted environmental impacts can be effectively mitigated through measures that have been incorporated into the design and where residual impacts would remain, these would be minor. For example, the Hambleton District Council's Environmental Health Officer concluded in relation to noise that whilst a relatively small number of properties would

70 PE3 appendix 4.5.

experience increases in noise, the increase would not be significant and the reduction in traffic using the existing route would reduce noise to the benefit of a significantly greater number of residents. The scheme was found to be acceptable and planning permission was granted. Whilst ME's concerns with respect to further development are noted, the current Development Plan has no allocation for development between the existing urban fringe and the route of the section of the bypass to the west of the A1. It acknowledged that construction of the BALB would cause some disruption. However, the degree of disruption is considered acceptable in light of the benefits of the Scheme.

6.3.2 The potential for the bypass to sever farm land is a matter upon which NYCC has entered into dialogue with those with an interest in the land, both during the planning process and the CPO/SRO processes. As a result the SRO includes the provision of new access points to mitigate severance resulting from the bypass.

6.3.3 The traffic flows used to assess the impact of the bypass included for changes likely to result from the A1/A1(M) improvements and took account of the LAR. Furthermore, that the LAR, which runs roughly parallel to the A1(M) north of Leeming Bar, would serve principally north-south traffic flows, whereas the BALB would serve east-west flows. It was for this reason, notwithstanding the LAR, that the bypass would cause such a significant reduction of traffic through the three settlements in question[71], relieving traffic congestion within Bedale town centre.

6.3.4 The local planning authority considers that the proposed development would act as an economic driver in the area, improving accessibility, to the benefit of both the local and wider economy. Improvements to townscape and car parking within Bedale, promoted by the Hambleton Local Development Framework, have been formulated to ensure that visitors, who might otherwise bypass Bedale, would still be attracted to the town[72].

6.3.5 The DfT allocates funding for highway maintenance based on a formula which includes the length of road to be maintained. The increase in road length resulting from the BALB would therefore attract additional funding to cover the additional costs incurred due to the bypass. It does not automatically follow therefore that the proposed Scheme would be likely to use maintenance funds that could otherwise be used to maintain the existing highway network.

6.4 **Mr Cooper** (MC) and other **Brookside Avenue residents** (BAr)

6.4.1 Mr Cooper had withdrawn his objection, but now seeks to reinstate it, although this does not derive from any additional evidence, but rather second thoughts.

71 PE4 Table 6.

72 PE3 Appendix 4.5 paras 7.56-7.59.

6.4.2 The only point raised concerns the discharge of surface water into Bedale Beck. This does not go in any meaningful sense to the issues before the SoS in relation to the confirmation of the CPO or SRO.

6.4.3 Notwithstanding local concerns regarding the severity of past events of longer durations, at the Inquiries NYCC confirmed that the 24 hour storm event, used in the FRA modelling, was a worse case scenario. The FRA, which took account of climate change, indicates that the flows would be likely to have a negligible effect on water levels in the 1 in 100 year 24 hour event[73]. The flooding issue was carefully considered through the planning process. It concluded that the development has been assessed for, and appropriately mitigates, flood risk. The Environment Agency did not object to the BALB at the planning application stage, subject to the imposition of conditions. Planning permission was granted subject to conditions specifically designed to ensure that the flood mitigation measures as modelled were provided[74].

6.5 Conclusions

6.5.1 At the end of the inquiry process it is apparent that there is in truth no relevant objection to the confirmation of the CPO at all. Not one objection disputes the benefits, need, alignment, land-take or deliverability of the BALB, which has planning permission and all the necessary funding. In one sense this is surprising in a compulsory purchase inquiry, but in another it is not at all – the Scheme has been fully engaged with, consulted upon, well-designed and enjoys overwhelming public support. It would be hugely beneficial to the community and the landowners it affects.

6.5.2 The SRO also at the end of the process is the subject of remarkably scant criticism. The bypass is 4.8 km long and each landowner affected accepts that the accesses proposed to be stopped up should be stopped up, and that each landholding will be served by a reasonably convenient alternative. The only issue of debate is whether the SHFAGC should be included or not.

6.5.3 In light of the benefits of the Scheme and the countervailing disbenefits of the existing situation continuing the SoS is asked to confirm the two Orders and to do so expeditiously.

73 BALB-14 page 19.

74 BALB-10 conditions 6 and 7.

7 INSPECTOR'S 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 2012 (CPO)

7.1.1 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.

The Public Interest

Need

7.1.2 The section of the A684 that would by bypassed by the BALB is a busy route which severs the settlements of Bedale, Aiskew and Leeming Bar [4.1.5]. In August 2012 planning permission was granted for the BALB, the route of which is proposed and safeguarded in the Development Plan [1.2, 4.1.2]. The BALB would, amongst other things, relieve congestion and accident rates along existing routes; provide improvements, overall, in the noise environment and air quality experienced by the local communities of Bedale, Aiskew and Leeming Bar; and, improve journey times in the local area. The economic benefits likely to be associated with the BALB have been appraised using DfT's methodology for calculating Benefit to Cost Ratios and it was found that it represents very high value for money [4.1.6]. Furthermore, a public consultation exercise undertaken in 2009 identified a significant level of public support for the Scheme [4.1.3].

7.1.3 The grant of planning permission for a new truck stop for Exelby in October 2012 necessitates a minor amendment to the BALB permission, for which NYCC has submitted a planning application under section 73 of the *Town and Country Planning Act 1990* (BALBa). I have no reason to believe that permission is unlikely to be granted for that modification, which simply seeks a revision of the prioritisation at the approved junction of Leases Road with Low Street. This modification does not necessitate any consequential amendments to either the CPO or SRO [1.3]. I have referred to the scheme modified in accordance with this application as BALBa.

7.1.4 Subject to confirmation of the Orders, construction would be expected to commence in 2014 [4.1.14]. Delay in confirmation would have a negative impact on the timely delivery of the significant economic, social and environmental benefits of the BALB for the area [4.1.21].

7.1.5 Other 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; and, the scheme is unlikely to be blocked by any impediments to implementation.

Land requirements

7.1.6 In my judgement, it is necessary to acquire the titles and rights sought by the Order for the implementation of the BALBa. This is not disputed by anyone [4.1.11]. Whilst NYCC has engaged with those with an interest in the identified land over a number of years, it has not yet managed to secure any of the necessary titles or rights [4.1.10]. I consider it is likely that without the CPO the BALBa would be delayed or would not be implemented at all. The CPO is necessary to achieve certainty in the progression of the Scheme.

Availability of the necessary resources

7.1.7 The BALB has an overall project cost of around £42.1m. DfT has offered to fund up to £35.9m of the costs on the condition that the remainder is provided by NYCC. Following a favourable resolution of its executive, the terms and conditions of this offer have been formally accepted by NYCC [4.1.13]. I consider that the resources necessary 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.

P*otential impediments to implementation*

7.1.8 The evidence is that no particular difficulties are anticipated in discharging the conditions attached to the planning permission for the BALB [4.1.18]. Furthermore, discussions are underway between NYCC and relevant parties concerning necessary agreements/consents still to be secured and there is no evidence to suggest that there are likely to be any particular difficulties [4.1.19]. I consider that there are no impediments which would be likely to prevent implementation of the scheme.

Other matters

Trustees of Bedale Estate (TBE)

7.1.9 TBE's concerns relate to the provisions of the SRO associated with the stopping up of a section of its access track that runs between Sand Hill Farmstead and Scurf Beck, alongside Sand Hill Plantation. The SRO seeks to provide two elements to maintain access in the form of the SHFAGC and RWAT. TBE considers that the SHFAGC would not be safe to use and promotes two alternatives, SROa and SROb [5.1.7, 5.1.11].

7.1.10 Although the SHFAGC forms part of the Scheme for which the BALB planning permission was granted, it is not self-evident, with reference to the planning committee report[75], that the planning authority considered whether this particular crossing may have highway safety implications when making its decision [6.1.3]. Nonetheless, the SHFAGC has been the subject of two Road Safety Audits, neither of which identified straight across vehicle movements as a cause for concern. The second of these, which was undertaken in response to concerns raised by TBE, concluded that with appropriate design and mitigation the crossing would operate safely [6.1.1.5]. I give little weight to the advice in TD 41/95 that '*direct vehicular access on to trunk roads shall be avoided where practicable*…', as the BALBa would not be a trunk road, rather it would form part of the local highway network [5.1.6, 6.1.1.6].

7.1.11 Livestock would be prevented from using the SHFAGC 'on the hoof' through the incorporation of cattle grids. Traffic such as this would be directed instead along the RWAT, in keeping with the aims of TA 57/87 [6.1.1.6/9]. The swept path analysis provided by NYCC shows that it would also be possible to accommodate likely vehicle turning movements at the Rectory Wood underpass within the land the subject of the CPO [5.1.3]. The majority of the farm vehicle movements identified by TBE involve the use of a pick-up, which, to my mind, can reasonably be regarded as a vehicle type that would regularly use the public highway network without any particular difficulties [6.1.1.9].

7.1.12 There is no dispute that the sightlines along the bypass available to drivers using the SHFAGC would meet the relevant standards [6.1.1.6]. I do not share TBE's concern, based on a theoretical calculation of gaps between vehicles passing along the bypass, that there would be insufficient time for vehicles to cross at the SHFAGC [5.1.8]. The calculation of average gaps in traffic is of little assistance, when in practice platooning of vehicles would tend to occur [6.1.1.8], resulting in some gaps of much longer duration than the theoretical average. I consider it is likely that there would be adequate gaps in the traffic to allow routine crossing manoeuvres to take place safely.

7.1.13 I understand that the objection raised by NYP to the SHFAGC is based on the concern that a driver approaching the direct crossing along the farm track may not appreciate that there is a decision point coming up, potentially leading to a conflict with passing traffic on the bypass. NYCC does not agree with this concern, not least as the crossing in question is not a public crossing and it would be likely to be used by farm workers who regularly use the junction [6.1.1.11]. Even if that were not the case, I consider that the change of surface from stone farm track to bituminous surface, the presence of cattle grids and gates as well as the highway layout ahead would all signal a decision point to approaching drivers [5.1.10, 6.1.1.9, 6.1.1.13].

7.1.14 I acknowledge that the SHFAGC introduces potential for conflicting vehicle movements [5.1.6, 6.1.1.8]. However, to my mind, some acceptance of accident risk is intrinsic to the dynamic operation of highways. I am

75 PE4 appendix 4.5.

satisfied that with appropriate design and mitigation the risks likely to be associated with the operation of the SHFAGC would be sufficiently low to be acceptable. Against this background, I consider that the costs of accidents cited by TBE are of little relevance [5.1.8].

7.1.15 TBE accepts that cost minimisation and value for money are relevant matters to scheme development [6.1.1.13]. I agree and consider that, as the BALBa would be publicly funded, cost is also a material consideration when gauging public interest.

7.1.16 The Jacobs' DO report provides a summary comparison of overall costs for the Sand Hill Farm crossings included in the SRO as well as those advocated by TBE as SROa and SRObb [5.1.2]. The SRObb RWAT costing includes provision for a bituminous surface throughout, whilst the SRO RWAT includes a granular stone track, on the basis that some traffic would use the at-grade alternative[76]. Given my conclusion with respect to the safety of the SHFAGC, I consider that this is a reasonable expectation, notwithstanding TBE's reservations [5.1.7]. Furthermore, I give little weight to TBE's assertion, which is unsupported by evidence, that the included land acquisition and compensation costs associated with the Rectory Wood track would be higher than those included by Jacobs [5.1.2]. With reference to the Jacob's DO report, it appears to me that the SROa crossing would be significantly more expensive than the SRO crossings. Furthermore, although the cost gap is smaller, the SROa crossing would also be more expensive than the SRObb crossing [5.1.4].

7.1.17 I conclude that the SHFAGC would be likely to operate safely and the SRO would provide a cheaper crossing than either the SROa or SRObb. This amounts to a compelling case in the public interest for the SRO crossing and against SROa and SRObb [5.1.9].

7.1.18 Furthermore, adoption of the SROa at this stage would delay the delivery of the benefits associated with the BALBa and would also add to the costs of the scheme [6.1.1.16]. Whilst I consider that this is not an overriding factor, it adds to the case in the public interest against SROa [5.1.5].

7.1.19 The alternative advocated by NYP of a staggered at-grade crossing (SROc) would be likely to result in farm traffic spending longer on the bypass [6.1.1.11]. In my judgement, this has greater potential to interrupt the free flow of traffic and increase the risk of conflict and is not to be preferred over the SHFAGC.

Mrs K Ellam (ME), Mr K Cooper (MC) and other Brookside Avenue residents (BAr)

7.1.20 ME has raised concerns in relation to the impact of the BALB in terms of

76 PE6 appendix KM01-Jacobs' Bedale, Aiskew and Leeming Bar Bypass Design Options for Sand Hill Farm Crossing report, September 2009, page 10.

landscape, noise, fumes, light intrusion and the local economy. However, with the exception of littering, which she acknowledges is within the remit of local authorities to address [5.3.2], these other issues were duly taken into account by the planning authority when making its decision to grant planning permission for the BALB. The reasons given for the grant of planning permission note: that any harm is outweighed by the public, townscape, health and economic benefits of the scheme; that the design and landscaping minimises adverse effects; and, that there are no unacceptable adverse impacts of the BALB, which complies with the Development Plan and the Framework[77] [5.3.2-4, 6.3.1].

7.1.21 In the absence of any compelling evidence to the contrary, I have no reason to doubt the view of NYCC that the traffic flows used to assess the impact of the bypass adequately accounted for changes likely to result from the A1/A1(M) improvements and took account of the LAR [6.3.3]. Furthermore, as the LAR would serve principally north-south traffic flows, whereas the BALBa would serve east-west flows [6.3.3], I am content that these schemes would be complimentary and would not result in unnecessary duplication as suggested by ME [5.3.5]. The bypass would attract a funding allocation from DfT towards its maintenance and it is not self-evident therefore, that it would draw on existing funding to the detriment of maintenance of the existing local highway network [5.3.6, 6.3.5].

7.1.22 MC and BAr raise concerns with respect to flood risk. Notwithstanding local views regarding the severity of past events of longer durations, at the Inquiries NYCC confirmed that the 24 hour storm event, used in the FRA modelling, was a worse case scenario. The FRA indicates that the flows associated with the 1 in 100 year 24 hour event would be likely to have a negligible effect on water levels. Flood risk was also a matter duly taken into account by the planning authority when making its decision to grant planning permission for the BALB. The conditions imposed include a requirement that the development be carried out so as to limit surface water run off generated by the Scheme, so that it will not exceed the run-off rate from the undeveloped site and not increase the risk of flooding off-site[78]. The planning authority concluded that the development has been assessed for, and appropriately mitigates, flood risk. I have not been provided with any compelling evidence to the contrary. The Environment Agency did not object to the BALB at the planning application stage, subject to the imposition of conditions [6.4.3] and this reinforces my finding.

7.1.23 Under the circumstances, and in particular in light of the extant planning permission for BALB and the safeguards provided by the associated conditions, not least in relation to flood risk, I consider that the concerns raised by ME, MC and BAr should be afforded little weight [5.4, 5.5].

77 BALB-10.

78 BALB-10.

Conclusion

7.1.24 Confirmation of the CPO is required now to ensure that the SRO can be implemented and the benefits of the BALBa can be brought forward in a timely manner. Having had regard to the above matters, including the concerns raised by TBE, NYP, ME, MC and BAr, I conclude on balance, that there is a compelling case in the public interest for the CPO to be confirmed.

Human Rights

7.1.25 Circular 06/2004 indicates that 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 *Human Rights Act 1998 (as amended)* (HRA). 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.

I have also had regard to Article 8 of the HRA, which provides that;

'*everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of*', amongst other things, '*public safety or the economic well being of the country, for the protection of health and for the protection of the rights and freedoms of others.'*

7.1.26 The effect of the CPO would be to deprive those parties identified in its schedules of titles and/or rights to land. Of those parties only two maintain objections; they are TBE and JNW.

JNW

7.1.27 The substance of the objection raised by JNW relates to the effect of the BALB on the value of their property and identifies a need for discussions concerning a purchase under statutory blight [5.2]. This is a matter of compensation to be agreed between NYCC and JNW or determined through the Upper Tribunal (Lands Chamber) [4.1.23]. Therefore, I give this objection little weight.

The Trustees of Bedale Estate *(TBE)*

7.1.28 TBE promotes an alternative crossing in the form of an underpass or overbridge along the line of the existing track (SROa), which it considers would be more convenient [5.1.4].

7.1.29 In my judgment, there is little doubt that SROa would provide a more convenient means of access in comparison with the joint solution included in the SRO. Not least as it would provide a shorter crossing route for elements of farm traffic that is unsuitable to use the SHFAGC and which would consequently have to travel the longer RWAT route, such as animals 'on the hoof'. As it would be more convenient, to my mind it could be regarded as causing a lesser degree of interference with TBE's and its Sand Hill Farm tenant's peaceful enjoyment of their possessions.

7.1.30 However, any impact on their Human Rights must be balanced against the rights and freedoms of others. I have had regard to the likely implications of the Scheme and consider that the interference which would result is the minimum necessary to deliver the identified public interest benefits, which weigh in favour of the SRO [7.1.17]. After careful consideration, I am satisfied that, if it goes ahead, the effect of the CPO on those parties would not be disproportionate.

Mrs K Ellam *(ME),* ***Mr K Cooper*** *(MC) and* ***Brookside Avenue residents*** *(BAr)*

7.1.31 The CPO does not seek to acquire any land or rights belonging to ME, MC or BAr. Insofar as their concerns relate to the potential for the BALB to adversely affect them and their neighbours with particular reference to factors such as flood risk and noise, I consider, in light of my findings above[79], it is unlikely that there would be a material adverse affect. Having had regard to the likely implications of the scheme, not least the compelling case in the public interest, and after careful consideration, I am satisfied that, if it goes ahead, the effect of the CPO on those parties would not be disproportionate.

CPO Plot nos. 100 and 101

7.1.32 Whilst I saw that CPO plot nos. 100 and 101 have the appearance of pasture, I understand that there is some uncertainty as to whether it should be regarded as recreational/garden land. NYCC has identified that these plots are located some way from the curtilage of the associated dwelling house [4.1.26] and this appeared to be the case to me. In my judgement, deprivation of the titles and rights associated with those plots would not be disproportionate in light of the public interest in the scheme proceeding. Furthermore, I am conscious that compensation would be payable.

79 Para 7.1.23.

Conclusions

7.1.33 I conclude that the economic, social and environmental benefits that would result from the BALBa demonstrate both the compelling case in the public interest for the CPO (including CPOa) to be confirmed and the consistency of the scheme both with Development Plan policy and the Government's most up to date national policy, as set out in the Framework. I consider that the land titles and rights sought by the CPO (including CPOa) are a proportionate response to the needs of the BALBa. In my judgement, there is clear evidence that the public benefits associated with the CPO (including CPOa) would outweigh the private loss of those people with an interest in the land and that the interference with their Human Rights would not be disproportionate.

7.1.34 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. I conclude that the CPO, modified in accordance with CPOa should be confirmed.

7.2 **THE SIDE ROADS ORDER 2012** (SRO)

7.2.1 If I am to recommend that this SRO 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 up[80].
- 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 otherwise[81].

SRO

7.2.2 The SRO includes the stopping up of 5 areas of highway and in each case a reasonably convenient alternative is either available or would be provided for by the SRO [4.2.3].

7.2.3 The SRO would also allow the stopping up of a section of the access track that runs between Sand Hill Farmstead and Scurf Beck (Plan no. 2- d) and an alternative comprising two elements, the SHFAGC and RWAT, would be provided (Plan no. 2- 5to 11) [4.2.4 4)]. TBE and NYCC agree that the RWAT on its own would fulfil the requirements of section 125(3) of the HA as regards the provision of a reasonably convenient alternative [5.1.11, 6.1.2.1]. In light of my findings that the SHFAGC would be likely to provide a safe means of shortening some of the farm trips, I consider that

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

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

the SHFAGC and RWAT together amount to a reasonably convenient alternative to the access which would be stopped up.

7.2.4 In addition, the SRO would allow the stopping up of 12 other private accesses and in each case where a means of access to the land continues to be required, another reasonably convenient alternative to the stopped up access is either already available or provided for by the SRO [4.2.4]. Where reasonably required, a new access would also be provided to those parts of premises severed from an existing access by the approved road [4.2.5/6].

SROd and SROe

7.2.5 The SRO makes provision for a new access to land which would be severed from Aiskew Grange Farmstead by the bypass (Plan no. 3- 12 and 13). Furthermore, I understand that this land can also be accessed via an existing access point close to Throughway House. NYCC has indicated that together these provide a reasonably convenient means of accessing the land. This is not disputed by those with an interest in the land or anyone else and I have no reason to do so [4.2.5].

7.2.6 Nonetheless, NYCC has identified that it is possible that in the future the A1 Leeming to Barton upgrade scheme may have some impact on the use of the existing access close to Throughway House (THA). In light of this uncertainty, at the Inquiries NYCC put forward a modification to the SRO in the form of an at-grade direct crossing of the bypass, at Chainage 1800, to serve Aiskew Grange Farm land to the north of the bypass, SROd [4.2.7]. At the Inquiries NYCC also provided a plan showing the likely layout of an alternative staggered at-grade crossing, which NYP would prefer, rather than SROd[82].

7.2.7 However, TA 57/87 indicates that if necessary farm access gates should be set back to allow long farm vehicles, when pulling in, to stand off the carriageway[83]. NYCC has indicated that it is normal practice to allow a set back of around 15 metres [4.2.8]. This is consistent with the treatment of the proposed SHFAGC and, in my judgement, is a reasonable requirement in the interests of reducing the likelihood of a farm vehicle that is standing at an access gate interfering with the free flow of traffic on the bypass, to the detriment of highway safety. The SROd/SROe modifications would provide a set back of only around 7 metres. Whilst NYCC has suggested that it would operate safely if it is assumed that the gates are open [4.2.8], there is no guarantee that that would be the case. Furthermore, given that gated access points are proposed, I consider that such an assumption would be unreasonable. The SROd/SROe crossings have not been the subject of a Road Safety Audit nor has planning permission been granted for either of them. NYCC considers that it may be possible to

82 ID2 figure 3.

83 BALB-29 TA 57/87 para 9.4.2.

secure any additional land required to extend the entrances on a consensual basis [4.2.8]. However, I give this little weight, given that none of the CPO land has yet been secured by private treaty, and in any event, that is not what is proposed on the SROd/SROe plans. I consider that the proposed modifications would be likely to have a detrimental effect on highway safety and consequently, SROd and SROe cannot be regarded as a reasonably convenient alternative access [4.2.10].

7.2.8 In my judgement, given that the SRO and the THA together would provide reasonably convenient means of access and that it is by no means certain that this would not continue to be the case, it would not be expedient to amend the SRO to include either SROd or SROe. Furthermore, under these circumstances, I consider that there would be no merit in halting the progression of the BALBa in order to explore the desirability of a grade-separated crossing versus the SROd and SROe crossing options [5.1.5].

Conclusion

7.2.9 Therefore, I am content that the provisions of the SRO would comply with the statutory tests. Furthermore, it is necessary for the implementation of the BALBa and, under the circumstances identified, should be confirmed.

8 RECOMMENDATIONS

8.1 I recommend that The North Yorkshire County Council A684 Bedale, Aiskew and Leeming Bar Bypass Compulsory Purchase Order 2012 be modified in accordance with CPOa and the Order so modified be confirmed.

8.2 I recommend that The North Yorkshire County Council (A684 Bedale, Aiskew and Leeming Bar Bypass Classified Road)(Side Roads) Order 2012 be modified in accordance with paragraph 3.6 above, and the Order so modified be confirmed.

I Jenkins

INSPECTOR

APPENDICES

APPENDIX 1

APPEARANCES AT THE INQUIRIES

NORTH YORKSHIRE COUNTY COUNCIL:

Mr G Williams (Of Counsel) He called	Instructed by C Dunn, Assistant Chief Executive Legal Services.
Mr A Finch BSc CEng MICE FCIHT	Jacobs.
Mr S White BSc(Dual Hons) DipLA LMLI	Jacobs.
Mr A Bainbridge BSc(Hons) MSc	North Yorkshire County Council.
Dr R Hibbert BA MSc PhD MBA MCILT	Jacobs.
Ms H Grayson BEng DMS CEng CEnv MCIWEM MICE	Jacobs.

OBJECTOR:
THE TRUSTEES OF THE BEDALE ESTATE

Mr P Rogerson He called	Instructed by TBE.
Mr K Martin BEng CEng MICE	AECOM.
Mrs R Sunter	JG Hills.

OTHER OBJECTORS:

Mr K Cooper	Local Resident.

APPENDIX 2

CORE DOCUMENTS LIST

CD1	Notification of the Inquiries.
CD2	The North Yorkshire County Council A684 Bedale, Aiskew and Leeming Bar Bypass Compulsory Purchase Order 2012.
CD3	The North Yorkshire County Council (A684 Bedale, Aiskew and Leeming Bar Bypass Classified Road)(Side Roads) Order 2012.
CD4	Scheme drawings.
CD5	Statement of Reasons.
CD6	Statement of Case (including index of Supporting Documents BALB-01 to BALB-29).
CD7	Copy of the objections made and not withdrawn.
CD8	Copy of the withdrawn objections, including letters of withdrawal.
CD9	Suggested modifications.

APPENDIX 3

INQUIRY DOCUMENTS LIST

Proofs of Evidence/Witness Statements

PE1	Proof of Evidence of Mr A Finch.
PE2	Proof of Evidence of Mr S White.
PE3	Proof of Evidence of Mr A Bainbridge.
PE4	Proof of Evidence of Dr R Hibbert.
PE5	Proof of evidence of Ms H Grayson.
PE6	Proof of Evidence of Mr K Martin.
PE7	Witness statement by Mr M Yeadon.

Other Inquiry Documents

ID1	Record of public notices.
ID2	Mr A Finch-Rebuttal proof of evidence in relation to TBE.
ID3	Proposed SRO amendments for addition of an at-grade crossing for Messrs Wilson of Aiskew Grange Farm, Back Lane, Aiskew at BALB chainage 1800.
ID4	Amended SRO schedule 3 and plan no. 3 to reflect an at-grade crossing at BALB chainage 1800.
ID5	Opening statement on behalf of NYCC.

ID6	Major schemes in Local Transport Plans, TAG Unit 1.4 June 2003.
ID7	The Management of Health and Safety at Work Regulations 1999.
ID8	The Construction (Design and Management) Regulations 2007.
ID9	Design Manual for Roads and Bridges-GD 04/12.
ID10	Mrs R Sunter-Response to rebuttal proof of evidence in relation to TBE
ID11	Letter from DfT to NYCC, dated 2 February 2012, confirming funding approval.
ID12	Letter from NYCC to DfT, dated 20 February 2012, accepting the funding offer.
ID13	Supplementary note on Transport and Economics proof by Richard Hibbert.
ID14	Schedule of objections to the CPO and SRO.
ID15	Clarification of points arising from PE7.
ID16	Closing submission on behalf of TBE.
ID17	Email from Hambleton District Council to NYCC, dated 21 May 2013, status of the Bedale Renaissance Masterplan.
ID18	Mr K Cooper-letter of objection to the CPO and SRO, dated 22 May 2013.
ID19	Report of the Corporate Director-Business and Environmental Services to NYCC Executive, dated 3 July2012.
ID20	Plan showing Exelby Lorry Park location.
ID21	CPO plot schedule of land uses (or claimed land uses) other than agricultural.
ID22	Outstanding consents and licenses.
ID23	Landowner negotiations.
ID24	Exelby truck stop general site layout drawing no. 6162/F620.
ID25	Highways Act 1980 Orders Publication.
ID26	Highways Act Orders and Schemes-Notes on the production of plans and supporting information.
ID27	CPO schedule amended Table 1-plots 100 and 101.
ID28	SRO schedule 2 and site plan no. 2-amended to reflect SROb.
ID29	Email from Strutt and Parker to NYCC, dated 22 May 2013.
ID30	Email from Mr P Rogerson/Mr K Martin to NYCC confirming that ID28 accurately reflects TBE's intentions.
ID31	Plan showing the location of the junction of the A61 with the C263.
ID32	Final submissions of NYCC.

APPENDIX 4

ABBREVIATIONS

AADT	Annual average daily traffic.
ALA	The Acquisition of Land Act 1981 (as amended).
BALB	The Bedale, Aiskew and Leeming Bar Bypass.
BALBa	BALB modified to allow for a revised prioritisation of the junction at Leases Road and Low Street.
BAr	Brookside Avenue residents: Mr C Roberts, Mr and Mrs Coady, A R Smith, V N Smith, Mr C Wood and Mr and Mrs Hart.
Circular 06/2004	ODPM Circular 06/2004 Compulsory Purchase and the Crichel Down Rules.
CPO	The North Yorkshire County Council A684 Bedale, Aiskew and Leeming Bar Bypass Compulsory Purchase Order 2012.
CPOa	The CPO modified in accordance with paragraph 3.2 above.
DfT	Department for Transport.
DMRB	Design Manual for Roads and Bridges.
ECHR	European Convention on Human Rights.
FRA	Flood Risk Assessment.
The Framework	The National Planning Policy Framework.
HA	The Highways Act 1980 (as amended).
HGV	Heavy goods vehicle.
HRA	Human Rights Act 1998 (as amended).
Jacobs' DO report	Jacobs' Bedale, Aiskew and Leeming Bar Bypass Design Options for Sand Hill Farm Crossing report, September 2009.
JNW	Mr J Wilkinson and Mr N Wilkinson.
kph	Kilometres per hour.
LAR	A6055 local access road.
MC	Mr K Cooper.
ME	Mrs K Ellam.
NYCC	North Yorkshire County Council.
NYP	North Yorkshire Police.
RWAT	Rectory Wood accommodation track.
SHFAGC	Sand Hills Farm at-grade crossing.
SoR	Statement of Reasons.
SoS	Secretary of State for Transport.
SRO	The North Yorkshire County Council (A684 Bedale, Aiskew and Leeming Bar Bypass Classified Road)(Side Roads) Order 2012.
SROa	The SRO modified by removing provision for the Sand Hill Farm direct at-grade crossing and Rectory Wood diversion and adding an underpass or overbridge on the line of the existing track.
SROb	The SRO modified by removing the Sand Hill Farm direct at-grade crossing.
SROc	The SRO modified by removing the Sand Hill Farm direct at-grade crossing and adding a staggered at-grade crossing.
SROd	The SRO modified by adding a direct at-grade crossing to serve Aiskew Grange Farm.
SROe	The SRO modified by adding a staggered at-grade crossing to serve Aiskew Grange Farm.
TBE	The Trustees of Bedale Estate.

THA	Throughway House access.
TW	Owners AN and RA Wilson. Occupiers AN, MA, RA and SL Wilson.