



Report to the Secretary of State for Transport

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an Inspector appointed by the Secretary of State for Transport

Date: 9 July 2012

HIGHWAYS ACT 1980

ACQUISITION OF LAND ACT 1981

**THE SUNDERLAND CITY COUNCIL (SUNDERLAND STRATEGIC TRANSPORT
CORRIDOR-NEW WEAR BRIDGE) SCHEME 2009**

**THE SUNDERLAND CITY COUNCIL (SUNDERLAND STRATEGIC TRANSPORT
CORRIDOR-TEMPORARY WORKS NEW WEAR BRIDGE) SCHEME 2009**

**THE SUNDERLAND CITY COUNCIL (SUNDERLAND STRATEGIC TRANSPORT
CORRIDOR-NEW WEAR BRIDGE A1231 AND B1405 CLASSIFIED ROADS)
(SIDE ROADS) ORDER 2009**

**THE SUNDERLAND CITY COUNCIL (SUNDERLAND STRATEGIC TRANSPORT
CORRIDOR-NEW WEAR BRIDGE) COMPULSORY PURCHASE ORDER 2009**

**THE SUNDERLAND CITY COUNCIL (SUNDERLAND STRATEGIC TRANSPORT
CORRIDOR-NEW WEAR BRIDGE) (SUPPLEMENTAL) COMPULSORY
PURCHASE ORDER 2011**

**THE SUNDERLAND CITY COUNCIL (SUNDERLAND STRATEGIC TRANSPORT
CORRIDOR-NEW WEAR BRIDGE A1231 AND B1405 CLASSIFIED ROADS)
(SIDE ROADS) (SUPPLEMENTAL) ORDER 2011**

**THE SUNDERLAND CITY COUNCIL (SUNDERLAND STRATEGIC TRANSPORT
CORRIDOR-NEW WEAR BRIDGE) (SUPPLEMENTAL No. 2) COMPULSORY
PURCHASE ORDER 2011**

Date of Inquiries: 11-13 October 2011, 5 December 2011, 17-18 April 2012.

Ref: DPI/J4525/11/3.

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CASE DETAILS

- **The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge) Scheme 2009** (NWB), made under section 106(3) of the Highways Act 1980 (as amended)(HA), would be confirmed under section 15 of Schedule 1 of the HA. The Scheme was published on 6 November 2009 and there was 1 objection outstanding to it at the commencement of the associated local Inquiry. Confirmation of the Scheme would authorise Sunderland City Council (SCC) to construct over the navigable waters of the River Wear the bridge specified in the schedule to this scheme¹.
- **The Sunderland City Council (Sunderland Strategic Transport Corridor-Temporary Works New Wear Bridge) Scheme 2009** (NWBT), made under section 106(3) of the HA, would be confirmed under section 15 of Schedule 1 of the HA. The Scheme was published on 6 November 2009 and there was 1 objection outstanding to it at the commencement of the associated local Inquiry. Confirmation of the Scheme would authorise SCC to construct over the navigable waters of the River Wear the bridge temporary works specified in the schedule to this Scheme².
- **The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge A1231 and B1405 Classified Roads) (Side Roads) Order 2009** (SRO), made under sections 14 and 125 of the HA, would be confirmed under section 8 of Schedule 1 of the HA. The Order was published on 6 November 2009 and there was 1 objection outstanding to it at the commencement of the associated local Inquiry. The Order would authorise SCC to improve lengths of highway, stop up lengths of highway, construct new highway, stop up private means of access to premises and provide new means of access to premises in accordance with the details set out in the schedules to the Order³.
- **The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge) Compulsory Purchase Order 2009** (CPO), made under sections 239, 240, 246 and 250 of the 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). The Order was published on 6 November 2009, and there were 5 objections outstanding to it at the commencement of the associated local Inquiry. The Order would authorise SCC to purchase compulsorily land and new rights over land for the purposes described in the Order⁴.
- **The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge) (Supplemental) Compulsory Purchase Order 2011** (SCPO1), made under sections 239 and 240 of the HA, would

¹ CD2.8

² CD2.7

³ CD2.5

⁴ CD2.6

be confirmed under section 8 of Schedule 1 of the HA and section 13A of the ALA. The Order was published on 21 June 2011 and there was 1 objection outstanding to it at the commencement of the associated local Inquiry. The Order would authorise SCC to purchase compulsorily land for the purposes described in the Order⁵.

- **The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge A1231 and B1405 Classified Roads) (Side Roads) (Supplemental) Order 2011 (SSRO)**, made under sections 14 and 125 of the HA, would be confirmed under section 8 of Schedule 1 of the HA. The Order was published on 22 December 2011 and there was 1 objection outstanding to it at the commencement of the associated local Inquiry. The Order would authorise SCC to stop up lengths of highway and stop up private means of access to premises in accordance with the details set out in the schedule to the Order⁶.
- **The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge) (Supplemental No. 2) Compulsory Purchase Order 2011 (SCPO2)**, made under sections 239 and 240 of the HA, would be confirmed under section 8 of Schedule 1 of the HA and section 13A of the ALA. The Order was published on 22 December 2011 and there was 1 objection outstanding to it at the commencement of the associated local Inquiry. The Order would authorise SCC to purchase compulsorily land for the purposes described in the Order⁷.

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

1 PREAMBLE

1.1 I have been appointed⁸ by the Secretary of State for Transport (SoS) to conduct concurrent Inquiries for the purpose of hearing representations and objections concerning the proposals by the SoS, on application from Sunderland City Council (SCC), to confirm the NWB, NWBT, SRO, CPO, SCPO1, SSRO and SCPO2. I held those Inquiries at Sunderland Civic Centre on 11-13 October 2011, 5 December 2011 as well as 17-18 April 2012.

1.2 I carried out site visits on 10, 13 and 14 October 2011 and 17 April 2012.

5 CD2.14

6 CD2.18

7 CD2.19

8 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).

Purpose of the Schemes and Orders

- 1.3 The purpose of the Schemes and Orders is to enable development to take place in accordance with planning permission Ref. 09/04461/LAP granted on the 26 May 2010 by SCC for a new highway bridge⁹ and associated highway works ('the approved Scheme').
- 1.4 The approved Scheme, which forms part of the Council's Sunderland Strategic Transport Corridor project (SSTC), includes the provision of a new multi-user bridge across the River Wear, which is the subject of the NWB (s106(3) of the HA). The erection of a temporary bridge from the south bank to the centre of the river to enable construction of NWB central foundations and masts within the riverbed¹⁰ is the subject of NWBT (HA s106(3)).
- 1.5 The approved Scheme also involves connections to the existing highway network at the A1231, Wessington Way, on the north side of the river and the B1405, European Way/Pallion New Road, on its south side. The purposes of the proposed side roads orders are to enable SCC to improve highways and construct new highways (HA s14), stop up highways (HA s14) and private means of access to premises and provide new private means of access to premises (HA s125).
- 1.6 In general terms, the purpose of the proposed compulsory purchase orders is to enable SCC to acquire the rights (HA s250) and titles to land which it has identified as being necessary in order to: construct the approved Scheme and improve existing associated highways (HA s239); carry out associated works authorised under section 14 of the HA (HA s240); and, mitigate adverse effects of the highways on the surroundings (HA s246).

Objections to the Schemes and Orders

- 1.7 On the 11 January 2010¹¹ Dickinson Dees (DD), acting for O&H Q7 Ltd (O&H) made a statutory objection to the CPO, SRO, NWB and NWBT. On the 12 September 2011¹² DD confirmed the withdrawal of O&H's objections to the NWB and NWBT and provided details of a number of suggested modifications to the SRO and CPO that it intended to promote at the Inquiries. Negotiations followed between DD and SCC. On the 7 October 2011¹³ DD notified the Department for Transport (DfT) that it had reached agreement with SCC with respect to modifications to the SRO (SROa) and CPO (CPOa), which would be promoted at the Inquiries by

9 CD5.4.

10 SCC4.1 para 2.3

11 CD2.10(4)

12 CD2.10(9)

13 CD2.10(11)

SCC. In its email dated 10 October 2011¹⁴, DD confirmed to the DfT that the objections of O&H to the NWB and NWBT as well as the SRO and CPO were unconditionally withdrawn. This position was verbally confirmed by DD at the start of the Inquiries. Therefore, I have not considered further the withdrawn objections of O&H.

1.8 At the commencement of the Inquiries duly made objections were outstanding from:

1. Harbour House Farms (HHF);
2. Matalan Retail Ltd (MR);
3. Mr MB Anderson (MBA);
4. The Sunderland Enterprise Park Management Company (SEPMC);
5. The North East Property Partnership Ltd (NEPP); and,
6. Mr C Murray (CM).

None of these parties chose to either appear or to be represented at the Inquiries.

1.9 An interested party, Captain D W Green (CG), appeared at the Inquiries to raise objections, for the first time, to the NWB and NWBT.

1.10 The SROa modifications proposed at the start of the Inquiries by SCC, prompted Timber Supplies Limited (TS) to raise an objection to the SRO and the SROa¹⁵.

1.11 These remaining objections can be said to relate broadly to the following matters: the impact on navigation (CG) and the environment (HHF); the availability of funding (MR, MBA, SEPMC & CM); alternative schemes (CM & NEPP); the effect on property and business (MR, MBA, SEPMC, NEPP & CM); loss of access (TS & CM); and, compensation (SEPMC, MBA & NEPP).

Scope of this Report

1.12 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, a schedule of proposed modifications and abbreviations used are attached as appendices. Statements of Case of SCC and CG were added to at the Inquiry through oral evidence. Italic text is used within the summaries of cases for my factual comments to assist the reader.

¹⁴ CD2.10(12)

¹⁵ ID32

2 DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 2.1 The development area of the approved Scheme straddles the River Wear between Pallion on the southern bank and Castletown on the northern bank. In the vicinity of the approved Scheme, the Sunderland Enterprise Park dominates land use on the northern side of the river. It includes uses such as modern office buildings, storage and distribution and some retailing and leisure. It differs substantially from the southern bank, which is predominantly characterised by traditional industrial uses and buildings, such as large warehouse type sheds, within the riverside Alexandra Business Park, as well as areas of car parking and a small retail park.

3 PROCEDURAL/LEGAL SUBMISSIONS

Adjournment of the Inquiries from 13 October 2011 to 5 December 2011

- 3.1 A number of the SROa and CPOa modifications submitted by SCC at the start of the Inquiries relate to land owned by O&H. SCC confirmed that those changes, which were agreed with O&H, would provide a satisfactory way of securing the access to and interests in O&H land necessary for the implementation of the approved Scheme. Furthermore, in comparison with the SRO and CPO, they would have less impact on O&H's land interests and better meet the needs of that company in relation to its aspirations for the redevelopment of its land in accordance with its allocation in the *SCC Unitary Development Plan (Alteration No. 2)(2007)*¹⁶. Therefore, SCC indicated that whilst it does not consider that the original arrangements for O&H land contained within the SRO and CPO were inappropriate, the modified arrangements would be preferable. At the start of the Inquiries SCC requested that the SRO and CPO be confirmed in the proposed modified form (SROa and CPOa). I determined that these modifications promoted by SCC, which reflected the proposals submitted by O&H prior to the Inquiries¹⁷, had substance. I confirmed that I would consider the proposed modifications as well as the original Orders.
- 3.2 However, on the second day of the Inquiries it became clear that CPOa contained an error related to plot sizes, such that it was not consistent with the CPO. SCC corrected this error and also took the opportunity to remove a small number of plots owned by The Crown Estate (CE). ODPM Circular 06/2004 indicates that as a general rule, Crown land cannot be compulsorily acquired. I identify the corrected version as CPOb.
- 3.3 SROa would result in a reduction in the provision of new access facilities within the O&H site under the terms of the Order. Furthermore, SCC confirmed that tenants of O&H had not been consulted about the proposed

¹⁶ CD5.14

¹⁷ CD2.10(9)

modifications and that it saw no need to do so¹⁸. Nevertheless, I could not be certain that the revised scheme would meet the access requirements of the remaining tenants, some of whom may remain on site up until the point in 2013 when leases expire and may therefore be affected by what is proposed. Under the circumstances, I ruled that in the spirit of section 8(3) of Schedule 1 of the HA, the persons likely to be affected should be consulted. I adjourned the Inquiries on 13 October 2011 until 5 December 2011 to allow that consultation to take place.

Adjournment of the Inquiries from 5 December 2011 to 17 April 2012

- 3.4 On 2 November 2011 the DfT wrote, on behalf of the SoS, to the tenants of the Alexandra Business Park to notify them about the SROa modifications proposed by SCC and to give them an opportunity to make representations in writing on those modifications before the resumption date for the Inquiries. Two responses were received, one from TS and another from Orange Box Self Storage Ltd (OB). The contents of the OB letter appear to be of little relevance to the matters before me. It confirmed that O&H has served notice on it to quit the site and expressed concerns about the difficulties it is having in securing a site elsewhere. OB did not raise any objections to the proposed modifications or the Orders the subject of the Inquiries. However, the TS letter objected to both the SRO and SROa on the basis that the effect of them would be to terminate the access to its premises.
- 3.5 At the resumption of the Inquiries on 5 December 2011 SCC confirmed that the SRO, with or without the SROa modifications, would remove access to the TS premises without allowing for a necessary and reasonably convenient alternative. Furthermore, it acknowledged that, under these circumstances, the SRO and SROa would not meet the statutory test set out in section 125 of the HA. Whilst SCC considered it likely that this issue could be satisfactorily addressed, it had not had sufficient opportunity during the course of the adjournment to investigate the means of resolving this matter. SCC requested a further adjournment to allow it an opportunity to do so. There were no objections to this request from other interested parties. As this matter had serious implications for the Orders the subject of the Inquiries, I agreed to adjourn the Inquiries on 5 December 2011 until 17 April 2012 in order to allow SCC an opportunity to resolve the matter.
- 3.6 In addition, SCC confirmed that during the course of the first adjournment its investigation of historic highway records had identified the existence of a number of small sections of mainly un-adopted highway leading to CPO plot 58 and SCPO1 plot 1. It considered that these would also need to be stopped up in the interest of highway safety and, as a result, a number of new plots would be left without access. In order to address these matters SCC had resolved to make additional orders, SSRO and SCPO2, during the

18 ID19

course of the second adjournment¹⁹. These were subsequently submitted to the SoS for confirmation. As a result of associated objections²⁰, Inquiries into those Orders were conjoined with the original Inquiries when those Inquiries resumed on 17 April 2012.

- 3.7 At the resumption of the Inquiries on the 17 April 2012 SCC submitted a new set of modifications to the SRO and CPO, which are identified as SROb and CPOc. These modifications reflect, amongst other things, the new agreement reached by SCC with O&H to ensure that access could be maintained for tenants.
- 3.8 SCC requested that the SRO and CPO be confirmed in the latest proposed modified form (SROb and CPOc). I determined that these modifications had substance and I confirmed that I would consider them along with the SRO, SROa, CPO, CPOa and CPOb. SCC provided correspondence from O&H and TS confirming agreement to the proposed arrangements²¹. I considered that the differences between the SROa and SROb were sufficiently limited so as not to necessitate a further round of formal consultations. Furthermore, relative to the CPO, the CPOc modifications related to O&H land, which would reduce the impact on that landowner's interests, would not amount to a substantial change upon which others may wish to comment. These views were shared by SCC²² and were not disputed by anyone.

Captain D W Green-new objection

- 3.9 CG appeared at the start of the Inquiries and asked to put his objections to me in relation to the NWB and NWBT. SCC did not object to his late objections being heard. I determined that his objections appeared to be relevant to the matters under consideration and therefore I would hear them, notwithstanding the late stage at which they were being submitted. Whilst CG suggested that, in light of his objections, the Inquiries should be suspended, this was disputed by SCC, who considered that the matters raised could be dealt with. I agreed with SCC, as I had not been provided with any compelling evidence to support CG's contention that the Inquiries should be suspended and I confirmed that I did not agree to that request.

Other procedural matters

- 3.10 SCC has confirmed that the schedule to the NWB contains a typographical error under the heading Span, where 'plan' should read 'span' and it provided a corrected version of the schedule²³, which I have taken into account (NWBa). Furthermore, the schedule to the NWBT contains a

19 ID47

20 CD2.21

21 ID65 and ID41

22 ID44

23 ID30

typographical error under the heading Waterway, where '37 metres' should read '27 metres' in accordance with the Scheme plans (NWBTA).

Statutory formalities

- 3.11 At the start of the Inquiries SCC confirmed that all the statutory formalities had been complied with and this was accepted by all the other parties present.
- 3.12 However, when the CPO was made, the entries for plots 17 and 18 referred to them being in the ownership of the Homes & Communities Agency (HCA). SCC subsequently became aware that some of plot 17 and all of plot 18 is owned by the Church Commissioners (CC). A consequence of this error was that the CC was not notified when the CPO was published of its right to object to the inclusion of its land, as it should have been²⁴.
- 3.13 Nevertheless, at a meeting with SCC in May 2011 the CC confirmed its ownership in relation to plots 17 and 18 and that it had instructed professional agents with appropriate expertise to advise it with respect to the CPO. The agent of the CC has provided a note to the Inquiry²⁵ confirming that the CC do not object to the CPO and that discussions between SCC and the CC revolve around compensation to be agreed. The CPOa, and subsequent, modifications submitted by SCC included the interests of the CC.
- 3.14 On the 17 January 2012 SCC served the CC with a copy of the CPO detailing CC plot ownership and notified it that any objections should be sent to the SoS by 17 February 2012²⁶. No objections were received. The CC's agents have since confirmed²⁷ that the Heads of Terms negotiated by SCC to secure the required interests in the CC land have been submitted to the CC and it expects that approval will be granted. Having had regard to paragraph 30 of ODPM Circular 06/2004, I am content that the interests of CC have not been prejudiced by the initial failure to serve notice of the CPO, which resulted from a defect in the Order.

Modifications

- 3.15 When considering suggested modifications to the Schemes and Orders the subject of these Inquiries, I have had regard to the limitations of the Minister's powers of modification²⁸.

24 ID17

25 ID17 attachment

26 ID45-letter dated 17 January 2012

27 ID62

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

4 THE CASE FOR SUNDERLAND CITY COUNCIL (SCC)

The material points made by SCC in its written and oral submissions.

4.1 The Public Interest

- 4.1.1 Over the years there has been a major decline in traditional industries in the City of Sunderland, leading to considerable dereliction and under use of land in significant parts of the City. In addition, the River Wear is a natural barrier that has a considerable impact upon accessibility, as road route choice between the City Centre and Sunderland north is limited to only two crossings where there is significant congestion. At peak periods the impact of this congestion is that a number of key routes and bus services are the subject of notable delays²⁹. As a consequence of factors such as these, some areas along the banks of the River Wear are amongst the most deprived in the UK.
- 4.1.2 The need for a high quality road link between the Port of Sunderland, city centre and the A19, of which a new crossing is a critical element, has long standing support in the Development Plan, having first been identified in the 1998 Unitary Development Plan. Later, Policy SA52A³⁰ of the *Second Alteration of the Sunderland Unitary Development Plan* safeguarded a route for the Sunderland Strategic Transport Corridor (SSTC). This part of the Development Plan dates from 2007 and is neither in conflict with nor outweighed by the provisions of the National Planning Policy Framework ('the Framework'). The SSTC also draws support from the RSS³¹ and in particular RSS Policy 9, which explicitly proposes the delivery of a new crossing of the River Wear. The RSS remains part of the Development Plan albeit that the Government has indicated its intention to revoke regional strategies.
- 4.1.3 The SSTC is also consistent with the Framework's overarching presumption in favour of sustainable development³² and also a number of the identified core planning principles. These include that planning should proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs as well as encourage the effective use of land by reusing land that has been previously developed. Furthermore, planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
- 4.1.4 The approved Scheme, for which planning permission Ref. 09/04461/LAP

29 SCC3.3 para 4.7.

30 CD5.14.

31 CD5.12-The North East of England Plan Regional Spatial Strategy to 2021.

32 ID64

was granted³³, forms phase 2 of the SSTC. The proposed new crossing has been taken through the democratic processes and has been the subject of extensive consultation and scrutiny. The planning application was supported by, amongst other documents, a detailed Environmental Impact Assessment and an Environmental Statement³⁴, which was appropriately scoped, fully taking account of input from consultees. It addressed the likely significant environmental impacts of the scheme across a wide variety of topics. There has been no complaint at these Inquiries about the propriety or extent of that exercise or about the outcomes it produced. The relevant impacts are, with the various identified methods of mitigation, acceptable. The local planning authority, Sunderland City Council, shared that view of the robustness and content of the planning application and considered it an appropriate basis for its determination.

- 4.1.5 The approved scheme would increase accessibility to employment opportunities by facilitating the opening up of regeneration and development areas on the south of the river and shortening journey times between those locations and residential areas to the north. The scheme would also improve connectivity between areas to the south of the river, such as the city centre, port and southern riverside, and the A19 and the cluster of sites close to the A19 that form part of the *Enterprise Zone for the North Eastern Local Enterprise Area*. It would also provide the opportunity for a strategic public transport corridor connecting Washington with the city centre.
- 4.1.6 Furthermore, it would reduce congestion. It is predicted that traffic flows would reduce on the Queen Alexandra Bridge by around 42% and the approved scheme would also provide some relief, albeit modest, at the approaches to the Wearmouth Bridge. Relieving congestion at those points would allow greater priority to be given to public transport and cyclists. The scheme has the support of the principal bus operators.
- 4.1.7 Using DfT guidance, the calculated Benefit to Cost Ratio for the approved scheme at around 4.121³⁵ represents high value for money, demonstrating that this is an extremely worthwhile project that would put far more into the local economy than it would take out. Furthermore, in comparison with a conventional bridge design, the proposed landmark bridge design would contribute more positively to marketability, rental levels, visitor numbers and cultural value. The economic benefits of the landmark aspect of the scheme represent over 10% of the estimated total benefits³⁶.
- 4.1.8 The Schemes and Orders the subject of these Inquiries would enable the

33 CD5.4.

34 CD6.1-6.6.

35 SCC3.1 para 7.28.

36 SCC6.1 paras 4.2 and 4.6.

implementation of the approved Scheme, which would itself achieve, to a greater or lesser degree, all of the objectives of the Sunderland Strategic Transport Corridor (SSTC) and would accord with the aims of the Sunderland Economic Masterplan³⁷, approved by SCC's cabinet in 2010, which is the most recent expression of the city's economic ambitions.

4.2 Funding

- 4.2.1 On the 20 December 2011 the DfT confirmed conditional funding in the sum of £82.563m towards the estimated total cost of the approved Scheme of £117.642m³⁸. Furthermore, SCC has since endorsed continued delivery of the approved Scheme and has notified the DfT that it agrees to the funding conditions, which include that SCC is responsible for meeting any expenditure over and above the contribution from the DfT³⁹. Confirmation of the Schemes and Orders the subject of these Inquiries is required now to ensure that the economic benefits of the approved Scheme can be brought forward in a timely manner, keeping costs to a minimum.
- 4.2.2 Subject to confirmation of the Schemes and Orders, construction of the approved Scheme would be expected to commence early in 2013⁴⁰. Delay in confirmation would be likely to add to the costs and have a negative impact on the economic benefits of the approved Scheme for the area⁴¹.

4.3 Consents

- 4.3.1 The evidence is that no particular difficulties are anticipated in discharging the conditions attached to planning permission Ref. 09/04461/LAP. There has been recent significant progress towards the discharge of some of those conditions through the Environment Agency's expression of approval in principle⁴² of an in-river method statement, to which conditions 10 and 32 are relevant, and the Landscape and Ecology Management Plan, required by conditions 12 and 13.
- 4.3.2 A *Coast Protection Act 1949* (CPA) consent and a *Food and Environmental Protection Act 1985* (FEPA) licence were granted on 24 November 2010⁴³. The only other consents outstanding, apart from those which are the subject of these Inquiries, can only really be applied for when the contractor for the approved Scheme is appointed. They include *Water*

37 CD7.3

38 SCC1.1B Appendix 1.2.10B.

39 SCC1.1B Appendices 1.2.11B and 1.2.12B.

40 SCC1.1B Appendix 1.2.11B para 7.7

41 SCC1.1 paras 5.14-5.17

42 CD5.4(a)

43 CD2.12

Resources Act 1991 consents and a Harbour Works Licence, in relation to which the Harbour Master has indicated that there is no problem in principle. There are no impediments to the delivery of the approved Scheme.

4.4 **The New Wear Bridge Scheme 2009 (NWB) and the Temporary Works New Wear Bridge Scheme 2009 (NWBT)**

- 4.4.1 The schemes contain the required information regarding “spans, headways and waterways” for the purposes of section 107 of the HA.
- 4.4.2 There is no requirement in the HA that a bridge authorised under section 106 should have no impact on navigation. The power is there, after all, to authorise the construction of bridges over navigable waters. For example, even where a Navigation Authority objects to a bridge scheme, on the grounds that it would interfere with the reasonable requirements of navigation, that objection can still be overridden, subject to special parliamentary procedure. However, that is not the case here, as there is no objection from the Navigation Authority. However, it is accepted that the effect on navigation is a matter which the SoS may wish to consider.
- 4.4.3 Navigation Authority (NA) is defined in section 329(1) of the HA as “persons authorised by any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock”. These schemes fall within the area of the Port of Sunderland’s statutory authority and the Port of Sunderland is the relevant NA. There is no objection from the NA to these Schemes nor was there any objection to the associated planning application, in relation to which the Port Manager was one of the consultees⁴⁴. The Schemes comply with the requirements of the Port.

4.5 **The Side Roads Order 2009 (SRO)**

- 4.5.1 The SRO is required to ensure that the existing highway layout can be modified to allow for the configuration of the approved Scheme and none of the objectors suggests that this is not necessary if the Scheme is to go ahead. There are six proposed highway links that would provide the necessary connectivity between the existing road infrastructure and the new crossing. These would include: a Northern Approach Link; a Riverside North Link; a Southern Approach Link; a Western Link; a Riverside South Link; and, a Woodbine Terrace Link.
- 4.5.2 On the north bank of the river the Northern Approach Link would connect the new bridge to Wessington Way at the roundabout currently linking to Timber Beach Road. The roundabout would be removed and remodelled as a signalised junction with improvement of the approaches and the southern leg realigned to connect to the new bridge rather than Timber

44 CD5.3 p.4

Beach Road. A dedicated left turn slip road would be included from the bridge onto Wessington Way west bound.

- 4.5.3 The Riverside North Link would involve realignment of, and improvements to, the connection between Timber Beach Road and Hylton Park Road under the new bridge approach, together with the closure of the current section of Timber Beach Road that links to the existing roundabout.
- 4.5.4 On the south side of the river the Woodbine Terrace Link would include remodelling and improvements to the roundabout at the intersection of Woodbine Terrace, European Way, Pallion New Road and Pallion Subway to form a new four-way signalised junction. Access into Pallion Retail Park would be improved and Woodbine Terrace widened as far as its junction with the Alexandra Business Park (ABP) and Ditchburn Terrace.
- 4.5.5 The existing private access to the ABP would be stopped up to make way for the Southern Approach Link, which would connect Woodbine Terrace to the new bridge. The Riverside South Link would connect the southern approach link to the existing riverside, thereby providing an alternative access to the remaining land within the ABP.
- 4.5.6 The Western Link would connect European Way to the Southern Approach Link. The first section of this link would lead north from European Way, underneath the existing railway bridge, to connect to a new roundabout. Footpath no. 26 would be closed where it passes beneath the railway and its function would be replaced by the footways on the new road. The second section of the Western Link would then run east from the new roundabout to connect to the Southern Approach Link at a signal controlled T-junction.
- 4.5.7 So far as other private accesses are concerned, the SRO provides alternatives in respect of those which would be stopped up with the exception of the access 'c'. This access would be stopped up in the interests of highway safety, due to its close proximity to the new four-way signalised junction. It serves commercial premises owned by CM on the southern side of Pallion New Road. SCC cannot provide an alternative access to that site either through the SRO or by other means. This has not been disputed by any party. Therefore, in order to ensure that the requirements of section 125 of the HA are met, SCC proposes to purchase the affected land and use it for a purpose that does not require a replacement access.

SROa modifications to the SRO

- 4.5.8 SROa⁴⁵ involves significantly shortening the Riverside South Link and the deletion of proposed private accesses numbered 1, 2 and 3 shown on the SRO Site Plan No. 2. Two new private accesses would be created; one in

45 SCC1.1A Appendix 1.2.1A

a northerly direction from the truncated link, identified as number 1, and another in an easterly direction from a point part way along the link, numbered 2. Private access number 4 shown on the SRO Site Plan No. 3, which was originally included for the benefit of O&H's retained land, would also be deleted. O&H has confirmed that it is not necessary.

4.6 **The Compulsory Purchase Order 2009 (CPO)**

- 4.6.1 None of the CPO plots has been shown to be unnecessary for the implementation of the approved Scheme, which is in the public interest, and the attempts that have been made to acquire the land titles and rights voluntarily have been unsuccessful. There is a compelling case in the public interest for the confirmation of the Order in order to achieve certainty in the progression of the approved Scheme and SCC has acted proportionately in making the Order.
- 4.6.2 CPO plots 1, 10 and 34 comprise the operational land of statutory undertakers⁴⁶. Section 16 of the Acquisition of Land Act 1981 (ALA) indicates that statutory undertakers who wish to object to the inclusion in a compulsory purchase order of land which they have acquired for the purposes of their undertaking, may make representations to 'the appropriate Minister'. The affected statutory undertakers were appropriately notified in respect of the CPO. SCC has not been notified of any objection being made by them to 'the appropriate Minister'.
- 4.6.3 CPO plots 19, 20, 23, 26 and 32 comprise land owned by CE. SCC accepts that this land cannot be the subject of compulsory purchase and it follows that the CPO cannot be made in its original form.

CPOa and CPOb modifications to the CPO

- 4.6.4 CPOa⁴⁷ modifications primarily relate to the SROa changes. In addition, the interests of CC were identified. However, CPOa contained an arithmetic error and has been superseded by a corrected version, CPOb.
- 4.6.5 The modifications reflect the SROa changes by reducing the area of land to be acquired. Instead, over the length of the Riverside South Link that has been deleted, CPOb seeks the acquisition of a right to construct, use and retain on the land a right of way in favour of SCC for the purpose of constructing and maintaining the bridge.
- 4.6.6 Prior to the start of the Inquiries SCC reached agreement with O&H with respect to the changes to the CPO related to its land. They do not involve any alterations to the affected area, rather they involved changes to the

46 Plot 1-Northumbrian Water Ltd., Plot 10-Northern Electric plc. and plot 34-Tyne and Wear Passenger Transport Executive.

47 SCC1.1A Appendix 1.2.2A and 1.2.3A.

nature of the compulsory acquisition. That is the acquisition of rights rather than title in relation to a number of plots. SCC would therefore, with the consent of the landowner, take less than was originally the case in the CPO. Absent of that agreement SCC needed to take title to the land in order to achieve the objectives of maintaining access between the west and east sides of the new road and to allow access to be taken to the river bank for road and bridge construction and maintenance. With the agreement of O&H it would now be possible to achieve these objectives by taking rights instead of title. The CPO and the proposed modified Order, CPOb, would achieve the same results through different means. As CPOb has less impact on the land interests within the O&H plots, it is clearly to be preferred. O&H agree⁴⁸ and no one else could be adversely affected by the change to the CPO as SCC would be taking lesser rights overall.

4.6.7 CPOb modifications also include the removal of CE's land from the Order. Instead, Heads of Terms have been agreed with CE in relation to its land. The fact that CE owns part of the route of the proposed bridge is, therefore, not an obstacle to the approved scheme coming forward. In addition, an error in CPOa, related to plot areas, has been corrected to align with the CPO. The area covered by CPOb is the same as that included in the CPO.

4.6.8 In comparison with the CPO, SCC considers that CPOb, which would achieve the same results but with a lesser impact on the rights of O&H, is to be preferred and recommends it to the SoS.

4.7 **Supplemental Side Roads Order 2011 (SSRO)**

4.7.1 As part of the approved Scheme, a package of highway improvement works would be carried out on the B1405 Pallion New Road at its approach to the roundabout connecting it with Woodbine Terrace, European Way and Pallion Subway. Under the approved Scheme this roundabout would serve as a key junction on the southern approach to the new bridge. The improvement works would include the widening of the eastern approach to the roundabout, which would be carried out on CPO plot 58, which currently forms part of commercial premises belonging to CM. The private access to those premises would also be stopped up on highway safety grounds, due to its proximity to the proposed new traffic signal controlled junction. This stopping up is included within the SRO.

4.7.2 However, during the course of the Inquiries it emerged that the SRO did not address the continuing existence of highway rights over a number of redundant highways, which, although largely not visible on the ground, have not been formally stopped up. These are Back Woodbine Terrace, a section of Woodbine Terrace and an un-named cross street between the two. There is therefore, the possibility that at some point in the future these highways could be brought back into use to the detriment of road safety at their junctions with the approved Scheme. The private access

48 ID8

from Pallion New Road to CM's premises, which would be stopped up under the provisions of the SRO, is coincident with the former route of the northern section of Back Woodbine Terrace. As a result, although the original SRO would have stopped up any private means of access from this land onto the new highway, there would still have been a public highway allowing access at the same point. The SSRO would stop up these highways and private means of access to adjacent land which is the subject of the CPO, SCPO1 and SCPO2.

4.8 Supplemental Compulsory Purchase Order 2011 (SCPO1) and Supplemental No. 2 Compulsory Purchase Order 2011 (SCPO2)

- 4.8.1 As a result of the stopping up associated with the SRO and SSRO, a number of plots of land would be left with no access. SCC cannot provide an alternative through the side roads orders or otherwise. Under these circumstances, SCC proposes to acquire the land and use it as highway amenity land, which would not require its own means of access. Otherwise this land would be landlocked, the requirements of section 125 of the Highways Act 1980 could not be met and the stopping up provision of the SRO and SSRO could not be confirmed.
- 4.8.2 The SCPO1 relates to a plot of CM's land. SCPO2 picks up the pieces of land which are not within the scope of the CPO and the SCPO1. Whilst it is outside the boundary of the approved Scheme, it is necessary for SCC to acquire the land the subject of SCPO1 and SCPO2 to enable the confirmation of the SRO and SSRO, thereby facilitating the implementation of the approved Scheme.
- 4.8.3 Based on the evidence of title submitted to the Inquiries⁴⁹, it appears that SCC may own part of SCPO2 plot 2, the ownership of which is recorded in the schedule as unknown. In order to deal with the uncertainty, SCC proposes a small modification to the schedule (SCPO2a), to indicate that all interests in plot 2 are sought except those owned by the acquiring authority.

5 THE CASE FOR THE SUPPORTERS

The material points are:

5.1 The case for O&H Q7 Ltd (O&H)

- 5.1.1 O&H is broadly supportive of the principle of the construction of a new road bridge across the River Wear, believing that it would be of benefit to Sunderland and the wider area. It welcomes the iconic design of the

⁴⁹ SCC3.5 Appendix 1.

bridge which would act as a landmark for the City⁵⁰.

6 THE CASE FOR THE OBJECTORS

The material points are:

6.1 The case for Harbour House Farms (HHF)⁵¹

6.1.1 HHF is the owner of the fishing rights on a section of the River Wear between Chester-le-Street and Durham. The objections of HHF relate to the NWB and NWBT.

6.1.2 HHF considers that inadequate arrangements have been made: to protect the passage of migratory fish (salmon and sea trout) during and following construction of the bridge; to guard against pollution during the construction phase; or; to mitigate the effects of any loss of migratory fish.

6.1.3 Furthermore, there is no provision to compensate the owners of fishing rights for any disruption caused to the exercise of those rights during and following construction of the bridge.

6.2 The case for Captain DW Green (CG)⁵²

6.2.1 The SCC has indicated that it did not include, within its application form, for consent to undertake marine works under the Coast Protection Act 1949 (CPA), the headway of the proposed bridge, as it considered that it was not necessary. On the face of it, when the relevant authority received that application it would not have known what restriction on navigation there would be, compared with the headway of 27 metres associated with a number of other bridges along the river. In the past the river upstream of the position of the proposed bridge was used by large vessels and so 27 metres headway was advisable at that time. The approved Scheme, due to the lower headway proposed of around 12.9 metres, would prevent the passage up river of ships larger than 500 tons, whereas ships of several thousand tons could be accommodated downstream. The Port handles large vessels transporting Nissan cars, which would be able to pass beneath the Queen Alexandra Bridge, if there was somewhere upstream for them to dock. The brownfield sites upstream of the proposed bridge location would be ideal for such a use.

6.2.2 CG accepted at the Inquiries that at present ships greater than 500 tons cannot sail up the river past the site of the proposed bridge as the channel

50 CD2.10(11)

51 CD2.10(6)

52 ID5

is not deep enough. Dredging would be required to make that possible. Furthermore, there are no Port facilities upstream or any berths capable of taking ships greater than 500 tons and no proposals for any to be constructed. Nonetheless, CG suggests that consideration must be given to the future and, although there are no formal plans to do so, he would like to see the Port facilities expanded up the river, thereby providing employment. The proposed bridge would prevent such an opportunity from being realised, to the detriment of the prosperity of Sunderland and the region.

- 6.2.3 Against this background, there are a number of impediments to confirmation of the NWB and NWBT. The proposal would amount to a reduction of Port facilities. Therefore, allowing the bridge Schemes to proceed would constitute a failure on the part of the Port Authority to carry out its duty under the *Sunderland Corporation Act 1972* to maintain Port facilities. Furthermore, any reduction of Port facilities has to be dealt with as a Harbour Revision Order in accordance with section 14 of the *Harbours Act 1964 (as amended)*. This has not been done. In addition, the CPA consent no. 34686/10/0/CON⁵³ received by SCC in response to its application was issued by the Marine Management Organisation (MMO) on 24 November 2010. However, at that time the MMO did not have the authority to issue such consents.

6.3 **The case for Matalan Retail Ltd (MR)**⁵⁴

- 6.3.1 The objections of MR relate to the CPO. MR holds an interest in plots 50 and 54, which form part of the car parking area for its retail business. MR considers that it is vital that pedestrian and vehicular access to its site, which is required for customers, staff and suppliers, is maintained 24 hours a day. MR is concerned that there will be a serious adverse effect on the access to the premises and reduced car parking facilities during construction of the approved Scheme and also possibly following completion. Any access disruption will have a detrimental impact on the profitability of the business, as could a reduction in car parking space.
- 6.3.2 SCC has not provided enough information on how the development would be carried out and how any nuisance or disruption would be minimised. Plant and machinery has the potential to cause nuisance, for example, through the generation of dust, noise and vibration. This could potentially drive away customers and thereby harm the profitability of the business.
- 6.3.3 SCC is still awaiting confirmation of funding and so there are insufficient funds available to meet all the requirements of the proposed scheme.

Where the cases of the following objectors reflect the submissions of MR I do not repeat the points here. The material additional points are:

53 CD2.12

54 CD2.10(1)

6.4 The case for Mr M B Anderson (MBA)⁵⁵

- 6.4.1 The objections of MBA relate to the CPO. MBA holds an interest in plots 6 and 7, which is where his dental practice is located. The nature of the business is such that any relocation is likely to be to purpose built premises. There are various up-front costs involved in identifying suitable new premises and it is understood that SCC is unwilling to fund these costs in advance of any compensation payment.

6.5 The case for Sunderland Enterprise Park Management Company Ltd (SEPMC)⁵⁶

- 6.5.1 The objections of SEPMC relate to the CPO. SEPMC owns plots 2, 4, 5, 6, 7, 8, 11, 13, 14. Furthermore, it has responsibility for the CCTV system covering Sunderland Enterprise Park, which must be fully functional 24 hours a day. There will be a serious adverse effect on SEPMC's ability to provide and maintain this service as a result of the proposed CPO. The nature of that business is such that any relocation is likely to be to purpose built premises. There are various up-front costs involved in identifying suitable new premises and it is understood that SCC is unwilling to fund these costs in advance of any compensation payment.

6.6 The case for the North East Property Partnership Ltd (NEPP)⁵⁷

- 6.6.1 The objections of NEPP relate to the CPO. NEPP is the lessee of plot 9, which comprises a car park and landscaping adjacent to an office building, unit 1 Hylton Park Road.
- 6.6.2 The SoS must, in confirming the Order, be of the view that SCC has made reasonable attempts to negotiate a voluntary purchase of NEPP's interest. In this case SCC has failed to undertake any negotiations whatsoever with NEPP. SCC wrote to NEPP in December 2008 setting out its intention to proceed with the CPO and confirming that it would enter into negotiations for the acquisition of NEPP's interest in the Order land. Despite NEPP's agent (DTZ) responding in writing to SCC on 10 December 2008, in order to enter into negotiations, SCC failed to reply. It also failed to reply to a subsequent letter from DTZ, dated 8 April 2009, querying whether SCC still intended to proceed with the approved Scheme. As of 8 February 2010 no further attempts have been made by SCC to contact NEPP in order to discuss the voluntary acquisition of its interest. In light of this, the SoS cannot form a view that the powers of compulsory purchase are sought as a last resort and that in the absence of the use of those powers the scheme would either be delayed or would not occur at all. Therefore, the use of the CPO powers in this instance would not comply with policy guidance set out in ODPM Circular 06/2004. It would be premature and

55 CD2.10(2)

56 CD2.10(3)

57 CD2.10(7)

should not be approved.

- 6.6.3 NEPP can see no evidence that SCC has explored alternative options for the bridge construction that would avoid or minimise the acquisition of its land or rights in its land. This amounts to a failure to act proportionately. It may be that SCC does not appreciate the severe detrimental impact of the proposed acquisition on the office building at unit 1 Hylton Park Road, which is not the subject of the CPO. Following the proposed acquisition, this unit would be left with insufficient car parking, rendering it incapable of beneficial use.
- 6.6.4 Compulsory acquisition of NEPP's interests in the Order land represents an infringement of its rights as set out in Article 1 of the *Human Rights Act 1998 (as amended)*. If SCC is unable to demonstrate that there is a compelling case in the public interest for the acquisition of NEPP's interests in the Order land, then the interference in its rights cannot be justified and the CPO cannot be confirmed by the SoS. In balancing the benefits of the scheme against interference with NEPP's Article 1 right SCC has failed to have regard to the likely adverse impact on the use of unit 1. Whilst SCC's statement of reasons refers to Human Rights, there is no record in any cabinet report or minutes that would suggest that Human Rights issues were considered at all, let alone that the balancing exercise required by the Circular has been undertaken. This constitutes a fundamental legal flaw in the authorisation to make the Order.
- 6.7 **The case for Mr C Murray (CM)**⁵⁸
- 6.7.1 The objections of CM relate to the SRO, CPO, SCPO1, SSRO and SCPO2. CM owns CPO plot 58, which forms part of his commercial land and property and also SCPO1 plot 1. He contends that, prior to the current occupier and tenant taking on the premises, he ran his own business from the site for 32 years.
- 6.7.2 CM does not believe that the proposed bridge is necessary. Sunderland is already served by the Wearmouth Bridge, the Wearmouth Railway Bridge, the Queen Alexandra Bridge and the Hylton A19 Bridge. The Queen Alexandra Bridge was designed and constructed as a road and rail crossing. However, only the road deck is being used. CM suspects that the other deck could be converted for vehicles at a fraction of the cost of a new bridge.
- 6.7.3 The UK is undergoing unprecedented economic pressures and, following the Government's Comprehensive Spending Review, local authorities have been forced to cut public spending in many areas. It cannot be in the public interest at this time to commit such significant capital expenditure to a non-essential fifth river crossing and fourth road bridge to serve the City of Sunderland.

58 CD2.10(5), (8), (10) and CD2.21.

- 6.7.4 Due to the constrained financial climate and the uncertainty around funding, the proposed crossing project has already been suspended once in July 2010. Although it has now been revived, there is still no certainty that SCC will get the necessary funding for the project to go ahead. Although the DfT has now confirmed its funding contribution, there is still a shortfall of £35 million, which would need to be found from local budgets at a time when essential services are facing severe cutbacks.
- 6.7.5 In relation to SCPO2, CM considers that whilst SCC has correctly identified the occupiers of the land, it has incorrectly identified the ownership. He says that he first occupied the site in the early 1970s and later purchased it in 1984. The whole of the site with its current physical boundaries has been occupied and maintained exclusively by him since the mid-1980s. With reference to the PlanIT Design plan attached to his letter of objection⁵⁹, dated 10 February 2012, CM claims title by adverse possession to the areas tinted yellow and also to the land tinted pink, except to the extent that it is public highway. An application by CM to be registered as proprietor of this land is being lodged at HM Land Registry, Durham.
- 6.7.6 Under these circumstances, the approved Scheme is not required and the Compulsory Purchase Orders should not be confirmed.

SRO

- 6.7.7 Under the 2009 Orders, only part of CM's property would be acquired under the terms of the CPO and so the SRO, which would stop up private means of access 'c', as shown on drawing no. 08/ED/1725.03, to his premises, would leave the remainder of his landholding with no access.

SSRO

- 6.7.8 Plan NWC/D/SCC/07/GEN/800021C attached to SSRO does not correctly identify the area of the public highway to be stopped up as is evidenced by the enclosures attached to the letter⁶⁰, dated 9 May 2011, from SCC to Longden Walker and Renney. CM believes that a significant part of the cross-hatched land was the subject of a stopping up order made more than 30 years ago. The extent of the public highway that has not been stopped up and which CM says is within the boundaries of his property is shown in orange tinting on a plan attached to his letter of objection⁶¹.

59 CD2.21

60 Letter attached to CD2.21

61 CD2.21

7 THE CASE FOR THE COUNTER OBJECTORS

7.1 Timber Supplies Ltd (TS)⁶²

- 7.1.1 TS considers that the SRO and SROa would result in the termination of the access leading to its premises, at unit 020 Alexandra Business Park, without any provision for a reasonable alternative.

8 REBUTTAL BY SUNDERLAND CITY COUNCIL

8.1 Harbour House Farms (HHF)

- 8.1.1 HHF does not own any land within the scope of the proposed Compulsory Purchase Orders. The Environmental Impact Assessment submitted in support of the planning application for the approved Scheme identified the likely impact of the works. Concerns regarding the impact on the water environment were raised at that time by the Wear Rivers Trust, the riparian owners and the Environment Agency and were discussed in detail, before the application was determined, to address all of the issues that were raised⁶³. The planning permission includes protective conditions which will effectively require a mitigation strategy to be agreed. The Environment Agency, which has responsibility for ensuring the protection of the water environment, has recently expressed its approval in principle to SCC's in-river method statement⁶⁴, to which conditions 10 and 32 are relevant. HHF has not produced any evidence to support its objection or to explain why the measures agreed with the EA would not meet its concerns regarding the protection of migratory fish and pollution prevention.
- 8.1.2 It is SCC's case that there would be no disruption to the fishing rights of HHF resulting from the construction of the approved Scheme, given the protection afforded by planning conditions. Whilst it is possible, in law, for a person to obtain compensation for the injurious affect of construction works⁶⁵, it is not possible to say whether HHF would be able to satisfy the qualifying conditions for such a claim on the basis of the evidence before the Inquiries.
- ### **8.2 Captain D W Green (CG)**
- 8.2.1 CG's objections in relation to the headway required for a new bridge represent his personal views based on the remote possibility that ships in excess of 500 tons might at some time in the distant future be able to,

62 ID32

63 SCC5.1 sections 14, 15 & 16.

64 CD5.4(a)

65 ID24

and have good reason to, sail further upstream within the designated Port area. At present they cannot and there is no reason for them to do so. CG accepted that upstream there are no Port facilities⁶⁶ nor any berths capable of taking ships of that size and no proposals for any to be constructed. If there was any reasonable prospect of this changing, it would be expected that the Port Manager would have objected to the approved Scheme and he has not. The headway provided for the bridge is appropriate and there is no evidence before the Inquiries that it would unreasonably affect navigation over this section of the river.

8.2.2 The CPA consent application was supported by drawings⁶⁷ which identified the proposed headway and so the MMO was aware of this restriction when it granted consent. The CPA consent⁶⁸ refers to an application made on 17 December 2009. At that time the responsible body for considering CPA licence applications was the DfT, who did so through an inter-departmental body to whom SCC's application was submitted. Section 1 of the Marine and Coastal Access Act 2009 (MCAA) came into force on 12 January 2010 establishing the MMO. On the same date section 14 of the MCAA came into force, which enabled the Secretary of State to make agreements with the MMO for the discharge of functions under other enactments. When the CPA consent was issued on 24 November 2010, the MMO existed in law. The fact that the consent was issued by the MMO indicates that some internal re-organisation had taken place, so as to allow the MMO to discharge such functions under the legislation prior to the licensing functions in the MCAA being brought into force. After April 2011 the MMO had the relevant power in its own right to grant such a licence. SCC considers that CPA consent no. 34686/10/0/CON remains valid. However, even if it proved necessary to apply again to the same body who has granted the consent, there is no reason to suppose that it would not take the same favourable decision again.

8.2.3 Section 15 of the *Sunderland Corporation Act 1972* provides that it is the duty of the Corporation merely to provide, maintain, operate and improve such port facilities in, or in the vicinity of, the port as it considers necessary or desirable. Therefore, there is no absolute duty to maintain the status quo and there is no provision that requires the Corporation to resist restrictions to navigation. Regarding the suggested need for a Harbour Revision Order, the *Harbours Act 1964* is concerned with schemes promoted by the Port Authority, which is not the case in relation to the NWB and NWBT. A Harbour Works Licence would be required once the in-river working method statements are finalised, nearer to the start of construction. Following preliminary discussions concerning SCC's application for this licence, the Port of Sunderland has confirmed that it

66 The *Sunderland Corporation Act 1972* confirms that port facilities means services and facilities for or in connection with the berthing, moving or dry-docking of vessels, the loading or unloading of goods or the embarking or disembarking of passengers in or from vessels, the lighterage, sorting, weighing, warehousing or handling of goods, and the movement of goods and passengers.

67 ID23

68 CD2.12.

does not object to what is proposed⁶⁹. None of these matters are impediments to the implementation of the NWB or NWBT.

8.3 **Matalan Retail Ltd (MR)**

- 8.3.1 Taking some of the land leased by MR cannot be avoided and it can be mitigated. SCC has provided a proposal to MR which would ensure that existing levels of parking space would be maintained. No response has been received.
- 8.3.2 Whilst the section of Woodbine Terrace to the north of MR's entrance is likely to be affected by one-way traffic for a period of time during the construction of the approved Scheme, the contractor will be required to maintain two-way traffic flows elsewhere, including the section of Woodbine Terrace between MR's entrance and Pallion New Road. Therefore, very few road users are likely to experience delays as a result of the works.
- 8.3.3 The planning permission for the approved scheme includes conditions, for example: nos. 4, 6 and 35, which would establish an appropriate framework of measures to mitigate the potential environmental effects of the scheme, including in relation to noise, dust and vibration.
- 8.3.4 MR's objection regarding the funding situation is misguided, as it demonstrates a lack of understanding about how the funding regime works.

8.4 **Mr M B Anderson (MBA)**

- 8.4.1 There is no dispute that MBA's site would be required in order to implement the approved Scheme. Whilst negotiations are continuing, SCC has been unable to reach agreement. However, an undertaking has been given to MBA with respect to the cost of professional fees arising from the preparation of claims, in keeping with the advice set out in ODPM Circular 06/2004. Initially negotiations between SCC and MBA were based on the expectation that it would be necessary to relocate the business. However, MBA has confirmed that he would be of retirement age by the time the land is required and in September 2011 he provided a claim drafted on an extinguishment basis. If the claim proceeds on that basis, it would not be necessary to relocate the business.
- 8.4.2 Those objections which relate to compensation should be disregarded as these Inquiries cannot deal with those matters, as they are to be agreed or otherwise determined through the Lands Chamber.

8.5 **Sunderland Enterprise Park Management Company Ltd (SEPMC)**

69 ID6

- 8.5.1 There is no dispute that SEPMC's site would be required in order to implement the approved Scheme. SEPMC have recently identified a suitable alternative location for its facilities. A claim on that basis was received by SCC in October 2011, which has been acknowledged and a timetable proposed for negotiation subject to confirmation of the CPO. It is recognised that any agreement would need to ensure continuity of CCTV coverage and monitoring for the Sunderland Enterprise Park.
- 8.5.2 Those objections which relate to compensation should be disregarded as these Inquiries can not deal with those matters as they are to be agreed or otherwise determined through the Lands Chamber.
- 8.6 **North East Property Partnership Ltd (NEPP)**
- 8.6.1 SCC has been actively negotiating with DTZ to acquire the identified NEPP interests since April 2011⁷⁰. In May 2011 a meeting was held at which DTZ agreed that the revised car parking layout proposed by SCC was acceptable in principle and at a meeting in October 2011 there was further discussion with respect to replacement car parking, landscaping and drainage. Although agreement has yet to be reached on these matters, SCC is convinced that the impact of the approved Scheme in relation to these matters could be appropriately mitigated⁷¹.
- 8.6.2 Additional drawings requested by DTZ to illustrate the likely relationship between the new bridge and unit 1 Hylton Park Road have been provided by SCC. Whilst NEPP has concerns with respect to the diminution of the value of its property arising from the construction of the bridge, this is a matter for compensation. The very minor impact on unit 1 Hylton Park Road cannot be allowed to put at risk the huge wider economic benefits which the proposal will bring.
- 8.6.3 Furthermore, SCC took account of Human Rights issues when authorising that the CPO be made. This is reflected in SCC's Cabinet reports, Statement of Reasons and Statement of Case⁷². It is SCC's case that there is no alternative to the acquisition of the identified NEPP interests and none has been suggested. The wider public interest outweighs the impact on NEPP's right to the enjoyment of its property. The proposed acquisition is a proportionate interference with the relevant Right and no infringement of the *Human Rights Act 1998* (as amended) would result from the confirmation of the CPO⁷³.
- 8.6.4 At the planning application stage One North East (the part owner of NEPP) was a strong supporter and contributor to the funding of the scheme. In this context, NEPP's objection is inexplicable.

70 SCC7.1 section 11.0 and SCC7.4 paras 5.14.1-3

71 ID7

72 CDs 2.1, 2.4, 2.9 and 2.11.

73 ID9

8.7 Mr C Murray (CM)

- 8.7.1 Part of CM's land, CPO plot 58, is required in order that Pallion New Road can be widened in accordance with the approved Scheme and the remainder is required because no alternative access can be provided to it. CM has declined to enter into negotiations with SCC concerning the plots in which he has an interest. Whilst CM has objected to the Orders, his objections seem to relate to the principle of the approved scheme itself and to the ownership of highway land.
- 8.7.2 CM has provided no evidence in support of his suggestion that the former rail deck of the Queen Alexandra Bridge could be used as an alternative to the approved Scheme. He has not provided any details to allow the new approaches that would be required to the former rail deck to be identified. Due to the high level of this deck the approaches would have the potential to have a significant impact on the wider area. CM has not complied with the direction given in the Notice of the Inquiries, dated 11 August 2011⁷⁴, which, in keeping with Schedule 1 of the Highways Act 1980, required sufficient details to be provided in order to enable any suggested alternative route to be identified. Schedule 1 indicates that the person holding the Inquiry and the Minister may disregard so much of any objection as consists of a suggested alternative, unless the person making the objection has complied with the direction.
- 8.7.3 In any event, the re-use of the rail deck of the Queen Alexandra Bridge was identified as an option and evaluated during the development work which led to the selection of the approved Scheme⁷⁵. In relation to the rail deck option, it was found that it would do little to improve access to strategic development sites along the south bank of the river. The cost and complexity of the work and the disruption that would be caused during construction also weighed against it. The approved route was formally adopted by the SCC in January 2005, following evaluation of the identified options and public consultation in relation to the preferred option⁷⁶.
- 8.7.4 CM has provided no support for his views that, contrary to the evidence of SCC, the approved scheme is not needed and the economic benefits will not materialise.
- 8.7.5 SCC considers that plan NWC/D/SCC/07/GEN/800021C attached to the SSRO correctly identifies the area of the public highway to be stopped up. Drawing no. 08/ED/3006 attached to the letter from SCC to Longden Walker and Renney, dated 9 May 2011⁷⁷, shows, coloured orange, the extent of highway adopted as maintainable at public expense as it relates

74 ID1

75 CD1.2 and 1.3, and ID20 para 4.10.

76 CD1.4.

77 CD2.21

to CM's site. This does not include, nor was it intended to include, the extent of unadopted highways. The letter made clear that there are other areas of highway in that locality in relation to which the SCC has no record of stopping up, and which, in its opinion, remain public highway. SCC has identified them as parts of Back Woodbine Terrace and Woodbine Terrace as well as the un-named cross street that connected them. No evidence has been provided by CM of an earlier stopping up. These highways are included within the SSRO. The fact that part of the highway subject to the SSRO is publicly maintainable and part is not is irrelevant to the stopping up issues. The SSRO is a sensible and necessary piece of 'tidying up' and it complies with the statutory tests.

- 8.7.6 SCC disputes CM's contention that SCPO2 incorrectly identifies ownership. CM's claim to have obtained title to part of the land the subject of SCPO2 by adverse possession has not been determined by HM Land Registry and SCC is opposing the application. Furthermore, it is legally impossible to acquire title to land which forms part of that part of the highway which is maintainable at the public expense⁷⁸. Similarly, a landowner cannot, by occupying a highway, extinguish the highway rights over it.

8.8 Timber Supplies Ltd (TS)

SROb

- 8.8.1 Following receipt of the objection of TS⁷⁹, SCC acknowledged at the Inquiries that the SRO, with or without the SROa modifications, would remove access to the TS premises without allowing for a necessary and reasonably convenient alternative and so the test set out in Section 125(3) of the Highways Act 1980 would not be met and the SRO, with or without the SROa modifications, could not be recommended for confirmation to the Secretary of State.
- 8.8.2 SCC has had discussions with the land owner and tenants of the site to resolve this and this has resulted in the proposed SROb modifications. Building on the SROa modifications, the SROb modifications involve shortening the Riverside South Link still further. Two new private accesses would be created from the truncated Riverside South Link; one in a northerly direction from the truncated link, identified as number 1, and another in an easterly direction from a point part way along the link, numbered 2. The SROb position for private access number 2 would allow access to be provided to TS and others along an agreed route⁸⁰ under the rights to be secured in relation to CPOb plot 28F. That is, the right to construct, use and retain on the land a road or route for purposes including a right of access for the benefit of tenants in lawful occupation of units 020, 30, 33, 34, 110/3 and 010/012.

78 ID67

79 ID32

80 ID57

- 8.8.3 Neither O&H nor its tenants object to the modification of the SRO in accordance with SROb⁸¹. Accordingly, SCC requests that the SRO incorporating the SROb modifications, rather than the SRO, with or without SROa, be confirmed by the SoS.

CPOc

- 8.8.4 In relation to land owned by O&H, the CPOc modifications reflect the SROb changes. O&H and TS have confirmed their agreement to the proposed arrangements and no objections have been raised by others⁸².
- 8.8.5 The other modifications included in CPOc relate to the previously confused position concerning the boundary between HCA land (plot 15A) and that of the CC (plot 17). SCC has settled on the position according to records associated with *The Tyne and Wear Development Corporation (Vesting of Land) (Borough of Sunderland) Order 1988*⁸³. The CC application to HM Land Registry to register its ownership of neighbouring land is consistent with the vesting records⁸⁴. SCC is in the process of stepping into the shoes of the HCA and has agreed Heads of Terms with the CC and so any future reconciliation as to the precise location of the boundary would be academic⁸⁵.
- 8.8.6 So long as the Order can be modified as proposed, which would meet the needs of the approved Scheme with a lesser impact on the rights of O&H, SCC asks that the CPO incorporating the CPOc modifications, rather than the CPO with or without CPOb, be confirmed by the SoS.

81 ID65, ID41 and SCC1.1B paras 2.6-2.10

82 ID65, ID41 and SCC1.1B paras 2.6-2.10

83 ID53

84 ID54 and SCC1.1B para 2.15

85 ID58

9 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.

9.1 The New Wear Bridge Scheme (NWB) and the Temporary Works New Wear Bridge Scheme (NWBT)

Requirements of navigation

- 9.1.1 If I am to recommend these schemes for confirmation, I need to consider the reasonable requirements of navigation over the waters affected by the Scheme⁸⁶.

Captain D W Green (CG)

- 9.1.2 The schedules to the published schemes identify 'spans, headways and waterways' parameters, in accordance with the requirements of section 107 of the Highways Act 1980 [4.4.1].
- 9.1.3 There is no dispute that the NWB and NWBT would restrict the passage of ships upstream to those less than 500 tons [6.2.1]. However, in my judgement, this is not contrary to the provisions of the SCA. The SCA identifies that it shall be the duty of the Corporation to provide, maintain, operate and improve such port facilities in, or in the vicinity of, the port as they consider necessary or desirable [8.2.3]. This duty falls on the Port of Sunderland, which is the relevant Navigation Authority in relation to the section of the River Wear that would be crossed by the NWB and NWBT. However, CG accepts that there are neither port facilities nor any upstream berths capable of taking vessels larger than 500 tons and no formal proposals for any to be constructed [6.2.2]. I have no reason to believe that the approved Scheme would result in a reduction in Port facilities as defined by the SCA. Furthermore, the Port of Sunderland does not object to the schemes [4.4.3] and, with the exception of CG, no other parties have objected to the Schemes on the basis of their impact on navigation.
- 9.1.4 Whether or not a Harbour Revision Order would be required to facilitate the proposed schemes is a matter of law [8.2.3] and no doubt the Secretary of State will be advised appropriately. Based on the evidence presented, it appears to me that it would not be required [6.2.3/8.2.3]. Even if it was, there is no evidence to show that it would be unlikely to be granted.

⁸⁶ Section 107 of the Highways Act 1980

- 9.1.5 I consider that the NWB and NWBT would not interfere with the reasonable requirements of navigation nor, with respect to their impact on navigation, would the Schemes harm the future prosperity of either Sunderland or the region.

Other matters

Captain D W Green (CG)

- 9.1.6 It appears unlikely that the MMO would have issued consent no. 34686/10/0/CON under section 34 of the Coast Protection Act 1949, if it did not have the delegated authority to do so [8.2.2]. However, if it proved necessary for SCC to apply again, there is no reason to suppose that the MMO, which now has the power in its own right to grant such consent, would not do so.
- 9.1.7 In my judgement, CG's objections would not be sufficient to justify withholding confirmation either of the NWB or of the NWBT.

Harbour House Farms (HHF)

- 9.1.8 I have not been provided with any evidence to support HHF's assertion that inadequate arrangements have been made to protect the passage of migratory fish during and following construction of the NWB and to guard against pollution during the construction phase [6.1.2]. On the contrary, planning permission Ref. 09/04461/LAP includes a number of conditions for the purposes of safeguarding the water environment. These include a requirement for a method statement detailing river working to be approved. The Environment Agency, which has responsibility for ensuring the protection of the water environment, has recently expressed its approval in principle to SCC's in-river method statement [8.1.1]. I consider it likely that the water environment would be adequately protected from harm and it is unlikely that there would be a need to mitigate the loss of migratory fish. Furthermore, although there is some provision, in law, for compensation for the injurious affect of construction works, under the circumstances outlined, the exercise of fishing rights would be unlikely to be disrupted either during or following the works [8.1.2].
- 9.1.9 In my judgement, HHF's objections would not be sufficient to justify withholding confirmation either of the NWB or of the NWBT.

NWBa and NWBTa

- 9.1.10 In the event of the NWB being confirmed, it would be necessary to correct the typographical error in the Schedule to the Scheme under the heading Span by replacing 'plan' with 'span' [3.10]. Furthermore, in the event of NWBT being confirmed it would be necessary to correct the typographical error in the Schedule to the Scheme under the heading of Waterway by

replacing '37 metres' with '27 metres', consistent with the Scheme plans. In my judgement, these minor corrections would not prejudice the interests of anyone.

Conclusion

- 9.1.11 I conclude that the NWB, modified in accordance with NWBa, and the NWBT, modified in accordance with NWBTa, should be confirmed.

9.2 The Side Roads Orders (SRO and SSRO)

- 9.2.1 If I am to recommend that these Orders 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 up⁸⁷.
- 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 otherwise⁸⁸.

SRO

Private access 'b'

- 9.2.2 The SRO includes the stopping up of the private means of access to ABP, which is labelled 'b' on drawing no. 08/ED/1725.03, and with it the access between the premises of TS and the public highway. The new private means of access off the proposed Riverside South Link would not provide a reasonably convenient alternative, which is required. Therefore, the SRO would fail the statutory test [3.5].
- 9.2.3 At the start of the Inquiries SCC promoted the SROa modifications to the SRO, which included changes to the proposed works on land owned by O&H. The effect of these changes would be to significantly reduce the length of the new Riverside South Link road and the consequent alteration of a number of the originally proposed new private accesses [4.5.8]. Through negotiation with O&H, SCC had determined that rather than acquiring land and constructing the originally proposed Riverside South Link, its access needs could be met by acquiring the right to construct, use and retain on the land a right of way for the purposes of constructing and

⁸⁷ Section 14(6) of the Highways Act 1980.

⁸⁸ Section 125(3) of the Highways Act 1980.

maintaining the NWB [4.6.5]. Nonetheless, the SRO modified in accordance with SROa would still not provide a reasonably convenient alternative access to TS, which is required. Therefore, the SRO modified in accordance with SROa would also fail the statutory test [8.8.1].

9.2.4 However, the SRO modified in accordance with SROb would position new private access number 2 in such a manner as to allow the provision of access to the premises of TS and its neighbours from the Riverside South Link, in accordance with the rights of access to be secured by SCC in relation to CPOc plot 28F [8.8.2]. Neither O&H nor its tenants object to this arrangement [8.8.3].

9.2.5 I am content that, in relation to private access 'b', the SRO modified in accordance with SROb would, in conjunction with the CPO modified in accordance with CPOc, ensure that 'another reasonably convenient means of access to the premises will be providedotherwise', thereby complying with the statutory test.

Private access 'c'

9.2.6 The SRO includes the stopping up of a private means of access labelled 'c' on drawing no. 08/ED/1725.03. This is necessary in the interests of highway safety, due to its proximity to the proposed new traffic signal controlled junction [4.7.1]. As a result of this stopping up and that associated with the SSRO, the land served by access 'c', much, if not all, of which is owned by CM, would have no alternative access. Furthermore, none can be provided by SCC to that land through the scheme or otherwise. Under these circumstances, SCC proposes to acquire that land through SCPO1 and 2, and use it as highway amenity land, which would not require its own means of access [4.8.1]. The remainder of CM's premises comprises CPO plot 58. Provided that these Compulsory Purchase Orders are confirmed, the statutory test set out in section 125 of the HA would be met, as no means of access to the premises served by private access 'c' would be reasonably required.

Other provisions of the SRO

9.2.7 I am content that the other provisions of the SRO, modified in accordance with SROb, would comply with the statutory tests, a matter which is not disputed by others.

SSRO

9.2.8 The private access from Pallion New Road to CM's premises, which would be stopped up under the provisions of the SRO, is coincident with the former route of the northern section of Back Woodbine Terrace. In the past this highway led to an un-named cross street, which linked it to a section of Woodbine Terrace [4.7.2]. These short lengths of highway are largely no longer visible on the ground. If they were they would form a

loop from the nearby roundabout to Pallion New Road a short distance to the east of the roundabout. The purposes of the SSRO include stopping up any remaining highway rights over this loop, comprising Back Woodbine Terrace, an un-named cross street and a section of Woodbine Terrace [4.7.2]. The existing eastern approach to the junction of Pallion New Road, Woodbine Terrace, European Way and Pallion Subway provides a reasonably convenient alternative, as would the approved Scheme. Therefore, the statutory test set out in section 14 of the HA in relation to the stopping up of highways would be met.

- 9.2.9 No evidence has been provided in support of CM's contention that parts of the highway the subject of SSRO have been stopped up in the past [6.7.8]. SCC has itself been unable to find any records in support of his view [8.7.5]. Under these circumstances, I am content that the disputed SSRO plan (no. NWC/D/SCC/07/GEN/800021C) does correctly identify the area of the public highway to be stopped up. Furthermore, if these highways are not stopped up it is possible that they would be brought back into use in the future enabling unplanned access at or close to the proposed new traffic signal controlled junction, to the detriment of highway safety [4.7.2].
- 9.2.10 The SSRO would also stop up private means of access from Back Woodbine Terrace identified as 'X1' and 'X2' on drawing no. NWC/D/SCC/07/GEN/800021C. As a result of this stopping up and that associated with the SRO, the land served by private accesses 'X1' and 'X2' much, if not all, of which is owned by CM, would have no alternative access. Furthermore, none can be provided by SCC to that land through the scheme or otherwise. As I have indicated, SCC proposes to acquire that land through SCPO1 and 2, and use it as highway amenity land, which would not require its own means of access [4.8.1]. Provided that these Compulsory Purchase Orders are confirmed, the statutory test set out in section 125 of the HA would be met, as no means of access to the land would be reasonably required.

Conclusions

- 9.2.11 I conclude that neither the SRO in its original, unmodified form, nor the SRO modified in accordance with SROa would comply with the statutory tests and so could not be confirmed. However, the SRO modified in accordance with SROb would, in conjunction with the CPO modified in accordance with CPOc, comply with the statutory tests. Furthermore, the SSRO would, in conjunction with SCPO1 and SCPO2, comply with the statutory tests. These side roads orders are necessary for the implementation of the approved Scheme and, under the circumstances identified, should be confirmed.

9.3 THE COMPULSORY PURCHASE ORDERS

- 9.3.1 ODPM Circular 06/2004 confirms that a compulsory purchase order should only be made where there is a compelling case in the public interest and

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

The public interest

Need for the approved Scheme

- 9.3.2 The need for a high quality road link between the Port of Sunderland, city centre and the A19 has been highlighted by the Development Plan for some time and the route for the Sunderland Strategic Transport Corridor (SSTC) was safeguarded by the *Second Alteration of the Sunderland Unitary Development Plan* [4.1.2]. The approved Scheme, comprising a new bridge and associated highway works, for which planning permission Ref. 09/04461/LAP was granted on the 26 May 2010, forms phase 2 of the SSTC [4.1.4]. In broad terms, the purpose of the compulsory purchase orders (CPO, SCPO1 and SCPO2) is to enable development to take place in accordance with the approved Scheme [4.1.8].
- 9.3.3 The calculated Benefit to Cost Ratio for the approved scheme shows that it represents high value for money. Furthermore, in comparison with a conventional bridge design, the proposed landmark bridge design would contribute more positively to the local economy. SCC has confirmed that the economic benefits of the landmark aspect of the scheme represent over 10% of the estimated total benefits [4.1.7].
- 9.3.4 More specifically, the approved scheme would relieve congestion at the two existing road crossings between City Centre and Sunderland north. That is, the Queen Alexandra Bridge and the Wearmouth Bridge [4.1.6]. The improved connectivity across the river would facilitate the opening up of regeneration and development areas on the south of the river by increasing accessibility between them and residential areas to the north, the A19 and the cluster of sites close to the A19 that form part of the *Enterprise Zone for the North Eastern Local Enterprise Area* [4.1.5].
- 9.3.5 Against this background, I give little weight to CM's generalised and unsupported assertion that in the context of the current constrained financial climate the approved scheme is not in the public interest [6.7.3/6.7.4].
- 9.3.6 Subject to confirmation of the Schemes and Orders which are the subject of these Inquiries, construction would be expected to commence early in 2013. Delay in confirmation would be likely to add to the costs and have

a negative impact on the economic benefits of the approved Scheme for the area [4.2.2].

Land requirements

Compulsory Purchase Order 2009 (CPO)

- 9.3.7 CPO plots 1, 10 and 34 comprise the operational land of statutory undertakers. Following notification of the relevant statutory undertakers with respect to the CPO no objections have been received by SCC [4.6.2] or otherwise drawn to my attention.
- 9.3.8 None of the five objectors to the CPO dispute that, in relation to the land in which they have an interest, the titles and rights sought by the CPO are necessary for the implementation of the approved Scheme [4.6.1].
- 9.3.9 However, NEPP suggests that SCC has failed to explore alternative options for the bridge construction that would avoid or minimise the acquisition of its land or rights in land [6.6.3]. Nevertheless, SCC did evaluate a number of alternative routes prior to its adoption, following public consultation, of the approved Scheme in January 2005 [8.7.3]. For its part, NEPP has not identified any alternatives to the approved scheme [8.6.3].
- 9.3.10 CM asserts that, as an alternative to the NWB, the former rail deck of the Queen Alexandra Bridge could provide an appropriate crossing. However, he has not provided sufficient information, such as details of the northern and southern approaches, to allow the route which he advocates to be identified [8.7.2]. In my judgement, he has not complied with the direction concerning alternative routes given in the Notice of the Inquiries, and so the weight I give his suggestion is reduced.
- 9.3.11 Furthermore, neither NEPP nor CM has provided any evidence to show that the options evaluation undertaken by SCC, which included a Queen Alexandra Bridge option [8.7.3] and led to the selection of the approved Scheme, was flawed in any way. Under these circumstances, I give their unsupported assertions that there may be preferable alternatives to the approved scheme little weight.
- 9.3.12 I consider that, except in relation to the plots owned by CE and O&H, it is necessary to acquire those titles and rights sought by the Order compulsorily to allow the implementation of the approved Scheme. I turn now to those two exceptions.
- 9.3.13 ODPM Circular 06/2004 indicates that as a general rule, Crown land cannot be compulsorily acquired. SCC accepts that plots 19, 20, 23, 26 and 32, which comprise land owned by CE, cannot be the subject of compulsory purchase and they should not be included in the Order [4.6.3]. In my judgement, it follows that the CPO could not be confirmed in its

original form or in the CPOa modified form. However, the CPOb and CPOc modifications include the removal of these plots. SCC has agreed Heads of Terms with CE to secure the required titles and rights [4.6.7].

Against this background, in my judgement, the fact that CE owns part of the route of the proposed bridge, which cannot be secured by the CPO, is not an obstacle to the approved scheme coming forward.

- 9.3.14 In relation to land owned by O&H, SCC has promoted a series of modifications to the CPO to reflect the changes proposed to the SRO. CPOa contained an arithmetic error and cannot be relied upon [4.6.4]. CPOb included modifications to respond to SROa and CPOc to SROb. These changes do not involve any alterations to the affected area, rather they comprise changes to the nature of the compulsory acquisition. That is, the acquisition of rights rather than title in relation to a number of plots, thereby reducing the impact of the CPO on the land interests of O&H [4.6.6]. Given that SCC is now of the view that rights rather than title would suffice in relation to a number of O&H plots, it is clear that the CPO sought title to more land than was necessary for the implementation of the approved Scheme. In my judgement, this is another reason why the CPO should not be confirmed in its original form.
- 9.3.15 The same can be said in relation to CPOb. Furthermore, between them SROa and CPOb would not provide a means of securing a necessary and reasonably convenient access to a number of existing units on O&H land, and so cannot be recommended. However, in contrast, SROb and CPOc would resolve this issue and neither O&H nor others with an interest in its land object to this arrangement [8.8.2/8.8.3].
- 9.3.16 The CPO incorrectly identified HCA as the owners of plots 17 and 18, which are owned for the most part by the CC [3.12]. This is another reason why the CPO should not be confirmed in its original form. However, the agent acting on behalf of the CC has confirmed that CC does not object to the CPO and no objection has been raised by the CC to the correct inclusion of its interest in those two plots[3.13/3.14], as set out in CPOc. In my judgement, the correction of this error would not fall outside the limitations on the Minister's power of modification set out in section 14 of the ALA⁸⁹.
- 9.3.17 The remaining CPOc modifications are a tidying up exercise in relation to the clarified position concerning the boundary between HCA Land (plot 15A) and that of the CC (plot 17). SCC has settled on the position according to records associated with *The Tyne and Wear Development Corporation (Vesting of Land)(Borough of Sunderland) Order 1988*. The CC application to HM Land Registry to register its ownership of neighbouring land is consistent with the vesting records [8.8.5].
- 9.3.18 I consider that the titles and rights which would be secured by the CPO modified in accordance with CPOc are necessary for the implementation of

89 ODPM Circular 06/2004 Paragraph 31.

the approved scheme. The proposed modifications would not alter the purposes for which the orders were made. Furthermore, they do not alter the CPO boundary, except through the removal of the plots belonging to CE. In relation to land owned by O&H they reduce the area of land to be acquired in favour of the acquisition of rights over the land. Whilst the interests of CC have been added, it does not object. In my judgement, the proposed CPOc modifications to the CPO do not amount to substantial amendments⁹⁰.

SCPO1 and SCPO2

- 9.3.19 The SRO and SSRO include the stopping up of highways and private means of access leading to a number of plots of land on the southern side of Pallion New Road, to the east of its junction with Pallion Subway [4.5.7, 4.7.2]. This land includes CPO plot 58, which is required for the widening of Pallion Way as part of the approved scheme. As a result of the stopping up, the remaining affected plots⁹¹ would have no alternative access and none can be provided by SCC to that land through the scheme or otherwise. Under these circumstances, SCC proposes to acquire the land and use it as highway amenity land linked to the improvement of New Pallion Road under the approved Scheme, which would not require its own means of access. Otherwise this land would be landlocked, the requirements of section 125 of the HA could not be met and the stopping up provisions of the SRO and SSRO, which are necessary for highway safety, could not be confirmed [4.8.1].
- 9.3.20 Based on the evidence of title submitted to the Inquiries, it appears that SCC may own part of SCPO2 plot 2, the ownership of which is recorded in the schedule as 'unknown'. SCPO2a comprises the addition of the interests of SCC to the schedule, at its request, in order to deal with this. The interests sought being all those except those owned by SCC [4.8.3]. In my judgement, this would be unlikely to prejudice the interests of anyone.
- 9.3.21 I consider that the titles and rights which would be secured by the SCPO1 and SCPO2, modified in accordance with SCPO2a, would be necessary for the implementation of the approved scheme.

Availability of the necessary resources

- 9.3.22 Prior to the start of the Inquiries a number of the objectors to the CPO raised concerns that SCC had not secured the funding for the approved scheme. However, since that time DfT confirmed conditional funding in the sum of £82.563m towards the estimated total cost of the approved Scheme of £117.642m⁹² [4.2.1]. Furthermore, notwithstanding the

90 ODPM Circular 06/2004 paragraph 52.

91 SCPO1 plot 1 and SCPO2 plots 1-4.

92 SCC1.1B appendix 1.2.10B.

constrained financial climate [6.7.4], SCC has endorsed the continued delivery of the approved Scheme and has notified DfT that it agrees to the funding conditions, which include that SCC is responsible for meeting any expenditure over and above the contribution from DfT⁹³[4.2.1].

- 9.3.23 I conclude that the necessary resources to acquire the land and implement the approved scheme for which the land is required are likely to be available within a reasonable timescale.

Potential impediments to implementation

- 9.3.24 There is no evidence to show that there are likely to be any particular difficulties in discharging conditions attached to the planning permission for the approved Scheme [4.3.1]. CPA consent and a FEPA licence were granted in 2010 and even if it proved necessary to apply for the CPA consent again, there is no reason to suppose that it would not be granted [4.3.2]. I am not convinced that the proposed bridge works would either be contrary to the SCA or require a Harbour Revision Order [9.1.3/9.1.4]. I understand that *Water Resources Act 1991* consents and a Harbour Works Licence, which are required, would be sought, in the normal course of events, once a contractor has been appointed and I have no reason to believe that they would not be granted [4.3.2].

Acquisition of land by negotiation

- 9.3.25 Although negotiations with NEPP have taken place, in the main, since the CPO was made, this is not fatal to the Order [6.6.2/8.6.1]. ODPM Circular 06/2004 indicates that it may often be sensible for the acquiring authority to initiate the formal compulsory purchase procedures in parallel with such negotiations⁹⁴.
- 9.3.26 Whilst I am satisfied that SCC has actively sought to acquire the land interests necessary for the implementation of the approved scheme through negotiation, none have been fully secured. In my judgement, it is likely that without the Compulsory Purchase Orders the approved Scheme would be delayed or would not be implemented at all. The Orders are necessary to achieve certainty in the progression of the scheme [4.6.1/4.8.2].

Conclusion

- 9.3.27 Confirmation of the Orders is required now to ensure that the economic benefits of the approved Scheme can be brought forward in a timely manner, keeping costs to a minimum. I conclude on balance, that there is a compelling case in the public interest for the compulsory purchase

93 SCC1.1B appendices 1.2.11B and 1.2.12B.

94 ODPM Circular 06/2004 paragraph 24.

orders to be confirmed, subject to identified amendments.

Human Rights

- 9.3.28 ODPM Circular 06/2004 indicates that regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the *Human Rights Act 1998 (as amended)* [6.6.4]. 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.*
- 9.3.29 I give little weight to the concerns raised by objectors concerning levels of compensation, as this is a matter to be agreed as part of the ongoing negotiations with SCC or determined through the Lands Chamber [8.4.1/8.5.2].

Matalan Retail Ltd (MR)

- 9.3.30 In the absence of any evidence to the contrary, I am content that the conditions attached to planning permission Ref. 09/04461/LAP would provide sufficient safeguards to ensure that the approved scheme would be implemented in a manner which would not cause undue nuisance or disruption to MR's business interests. In addition, based on the evidence presented, it appears likely that it would be possible to ensure that existing levels of car parking would be maintained at MR's site, by establishing a small number of new spaces in an area currently occupied by a grass verge [6.3.1/8.3.1/8.3.3].

Mr M B Anderson and Sunderland Enterprise Park Management Company Ltd (MBA and SEPMC)

- 9.3.31 The indications are that suitable alternative premises could be found for the SEPMC facility which would be displaced by the approved scheme [6.5.1/8.5.1]. Furthermore, as MBA is likely to be of retirement age by the time plots 6 and 7 are required, he is now approaching negotiations with SCC on the basis that the business would be extinguished, rather than relocated [6.4.1/8.4.1].

North East Property Partnership Ltd (NEPP)

- 9.3.32 I have had regard to the concern of NEPP that unit 1 Hylton Park Road may be left with insufficient car parking as a result of the proposed acquisition [6.6.3]. However, based on the evidence presented, it appears that the whilst the approved Scheme would take up part of the existing car park of the office building, this impact could be appropriately mitigated

through the provision of replacement parking space elsewhere within the same curtilage [8.6.1]. As a result, implementation of the approved Scheme would be unlikely to render unit 1 incapable of beneficial use.

- 9.3.33 SCC's Cabinet reports, Statement of Reasons and Statement of Case all indicate that Human Rights issues have been taken into account in its decision making associated with the Compulsory Purchase Orders [6.6.4].

Mr C Murray (CM)

- 9.3.34 CM claims to have obtained title by adverse possession to SCPO2 plots 1, 2 and 3, except to the extent that they comprise public highway [8.7.5]. Whilst I understand that an application by him to be registered as proprietor of this land has been lodged at HM Land Registry, SCC has objected to it and at the time of the Inquiries it had not been determined [8.7.6]. Under these circumstances, I consider that the SCPO2, subject to SCPOa modifications, has been drafted on a reasonable basis. That is, plot ownership scheduled in accordance with Land Registry records and otherwise scheduled as unknown. Furthermore, notice of the SCPO2 has been served upon CM, as an identified occupier of the land, and his objections to it have been taken into account. I have no reason to believe that CM's interests have been or would be prejudiced by not being identified as an owner of plots 1 to 3.
- 9.3.35 As a consequence of the Compulsory Purchase Orders, CM would lose ownership of the land he owns to the south east of the roundabout at the junction of Woodbine Terrace, European Way, Pallion New Road and Pallion Subway. In my view, if the approved Scheme is to be implemented, it is unlikely that this could be avoided.

Conclusions

- 9.3.36 I conclude that, absent of modifications, the CPO cannot be confirmed. The reasons for this include that it: includes land owned by the CE, which cannot be compulsorily purchased; incorrectly identifies ownership in relation to plots 17 and 18; and, seeks title to a number of plots owned by O&H in relation to which rights would suffice for the purposes of implementing the approved Scheme [9.3.13, 14 and 16]. The latter argument would also apply to the CPO modified in accordance with CPOb [9.3.15].
- 9.3.37 However, I consider that the land titles and rights sought by the CPO, modified in accordance with CPOc, SCPO1 and SCPO2, modified in accordance with SCPO2a would be a proportionate response to the needs of the approved scheme [9.3.18, 21]. Having regard to the human rights of the objectors as well as those of others with an interest in the land affected by the Compulsory Purchase Orders, in my judgement, there is clear evidence that the public benefit associated with the Orders would outweigh the private loss of those people with an interest in the land. I conclude on balance, that the purposes for which the Compulsory

Purchase Orders have been made sufficiently justify interfering with the human rights of those with an interest in the land affected.

No infringement of the *Human Rights Act 1998 (as amended)* would result from the confirmation of the CPO, modified in accordance with CPOc, SCPO1 and SCPO2, modified in accordance with SCPO2a. These Orders should be confirmed.

- 9.3.38 If the SoS were to determine that one or more of the Compulsory Purchase Orders can not be confirmed, as set out above, this would also be fatal to the SRO, which relies upon them for statutory compliance. Similarly, the SSRO is reliant on the confirmation of SCPO1 and SCPO2, modified in accordance with SCPO2a.

10 RECOMMENDATIONS

- 10.1 I recommend that The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge) Scheme 2009 (NWB), subject to NWBa modifications, be confirmed [9.1.11]. The Scheme as originally made should not be confirmed.
- 10.2 I recommend that The Sunderland City Council (Sunderland Strategic Transport Corridor-Temporary Works New Wear Bridge) Scheme 2009 (NWBT), subject to NWBTa modifications, be confirmed [9.1.11]. The Scheme as originally made should not be confirmed.
- 10.3 I recommend that The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge A1231 and B1405 Classified Roads) (Side Roads) Order 2009 (SRO), subject to SROb modifications, be confirmed [9.2.11]. The Order as originally made should not be confirmed.
- 10.4 I recommend that The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge) Compulsory Purchase Order 2009 (CPO), subject to CPOc modifications, be confirmed [9.3.37]. The Order as originally made should not be confirmed.
- 10.5 I recommend that The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge) (Supplemental) Compulsory Purchase Order 2011 (SCPO1) be confirmed [9.3.37].
- 10.6 I recommend that The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge A1231 and B1405 Classified Roads) (Side Roads) (Supplemental) Order 2011 (SSRO) be confirmed [9.2.11].
- 10.7 I recommend that The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge) (Supplemental No. 2) Compulsory Purchase Order 2011 (SCPO2), subject to the SCPO2a modifications, be confirmed [9.3.37]. The Order as originally made should not be confirmed.

I Jenkins

INSPECTOR

APPENDICES

APPENDIX 1

APPEARANCES AT THE INQUIRIES

FOR SUNDERLAND CITY COUNCIL:

Mr S Sauvain QC
assisted by
Mr M Carter of Counsel

Instructed by the Head of Law and Governance,
Sunderland City Council.

They called
Mr D Abdy
BEng CEng MICE MCIWEM MAPM
Mr E Wallage
BSc CEng MICE
Mr K Atkinson
BEng CEng MICE
Mr M Mattok
MA MBA DipTP MRTPI
Mr G McGill
MA MSc MRTPI
Ms J Collinson

Project Director.

Engineering Services Manager, SCC.

Transportation Policy Officer, SCC.

Technical Manager Development Control, SCC.

Director, MD2.

Assistant Head of Law and Corporate
Governance, SCC.

OBJECTORS:

Captain DW Green
(retired)

Interested person.

SUPPORTERS:

Mr S Dagg
Mr M Holmes

Dickinson Dees.
O&H Q7 Ltd.

APPENDIX 2**CORE DOCUMENTS LIST****1.0 PROJECT DEVELOPMENT**

CD1.1	River Crossing Feasibility Study by Bullen Consultants	September 2002
CD1.2	Preliminary Option Analysis Report by Arup	May 2004
CD1.3	Preferred Option Report by Arup	January 2005
CD1.4	Cabinet Report and Minute – Adoption of Preferred Route	19 January 2005
CD1.5	Original Major Scheme Business Case	July 2005
CD1.6	Extract from Chapter 10 of the Tyne and Wear Local Transport Plan 2006 – 2011	
CD1.7	Department for Transport's Guidance on Funding for Major Transport Schemes	August 2007
CD1.8	Cabinet Report and Minute – Offer from the Department For Transport	26 June 2008
CD1.9	Notification of Programme Entry letter	13 August 2008
CD1.10	Cabinet Report and Minute – New Wear Bridge Design Options	3 December 2008
CD1.11	Regional Funding Advice : North East England 2009	February 2009
CD1.12	Cabinet Report and Minute – Landmark Bridge Option	9 September 2009
CD1.13	Letter from Department for Transport re Central Government Funding of Transport Projects	10 June 2010
CD1.14	Department for Transport – Investment in Local Major Transport Schemes	October 2010
CD1.15	Letter from Department for Transport re Development Pool	1 November 2010
CD1.16	Cabinet Report and Minute – Update following Outcome of Comprehensive Spending Review	1 December 2010
CD1.17	Council's Expression of Interest to the Department for Transport	23 December 2010
CD1.18	Department for Transport – Investment in Local Major Transport Schemes: Update	February 2011
CD1.19	Letter and Slides from the Department for Transport re the Development Pool	8 March 2011
CD1.20	Extracts from the Tyne and Wear Local Transport Plan Strategy 2011 – 2021 and Delivery Plan 2011 – 2014	March 2011

CD1.21	Department for Transport Value for Money Guidance for Development Pool Schemes	May 2011
CD1.22	Cabinet Report and Minute – Update on Development of the Best and Final Bid	20 July 2011
CD1.23	Letter from the Department for Transport – Development Pool Schemes	3 August 2011
CD1.24	Best and Final Bid Document to the Department for Transport incorporating: - 1. Strategic Case 2. Financial Case 3. Economic Case 4. Management Case 5. Commercial Case	9 September 2011
2.0	COMPULSORY PURCHASE, SIDE ROADS AND SCHEME DOCUMENTS	
CD2.1	Cabinet Report and Minute – Acquisition of Land and Making of Statutory Order	8 April 2009
CD2.2	Proposed Route Classification Certificates	16 April 2009
CD2.3	Cabinet Report and Minute – Section 106 Scheme and Section 34 Coast Protection Act Consent	9 September 2009
CD2.4	Cabinet Report and Minute – Amended Compulsory Purchase Order	7 October 2009
CD2.5	The Sunderland City Council (Sunderland Strategic Transport Corridor – New Wear Bridge 1231 and B1405 Classified Roads) (Side Roads) Order 2009 and Order Maps (SRO)	2 November 2009
CD2.6	The Sunderland City Council (Sunderland Strategic Transport Corridor – New Wear Bridge) Compulsory Purchase Order 2009 and Order Maps (CPO)	3 November 2009
CD2.7	The Sunderland City Council (Sunderland Strategic Transport Corridor – Temporary Works New Wear Bridge) Scheme 2009	4 November 2009
CD2.8	The Sunderland City Council (Sunderland Strategic Transport Corridor – New Wear Bridge) Scheme 2009 and Engineering Drawing	4 November 2009
CD2.9	Statement of Reasons for CPO and SRO	November 2009
CD2.10	Letters of Objection: 1) Matalan Rental Ltd.	January 2010

	2) Mr M. B. Anderson (Wessington Way Dental Practice).	
	3) Sunderland Enterprise Park Management Company.	
	4) O&H Q7 Ltd.	
	5) Mr C Murray.	
	6) Harbour House Farms.	
	7) North East Property Partnership Ltd.	February 2010
	8) Mr C Murray.	July 2011
	9) O&H Q7 Ltd. (partial withdrawal)	12 September 2011
	10) Mr C Murray.	30 September 2011
	11) O&H Q7 Ltd.(conditional withdrawal)	7 October 2011
	12) O&H Q7 Ltd.(unconditional withdrawal)	10 October 2011
CD2.11	Statement of Case of Sunderland City Council	February 2010
CD2.11(a)	Email from Jonathan Rowson to John Cooke, DTZ	16 September 2011
CD2.12	Coast Protection Act Consent and Food and Environmental Protection Act 1985 Licence	24 November 2010
CD2.13	Cabinet Report and Minute – New Wear Bridge Acquisition of Additional Land	1 June 2011
CD2.14	The Sunderland City Council (Sunderland Strategic Transport Corridor – New Wear Bridge) (Supplemental) Compulsory Purchase Order 2011	17 June 2011
CD2.15	Statement of Reasons – SCPO1	June 2011
CD2.16	Statement of Case – SCPO1	August 2011
CD2.17	Statement of case - Mr C Murray (CPO/SCPO1)	September 2011
CD2.18	The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge A1231 and B1405 Classified Roads)(Side Roads)(Supplemental) Order 2011	December 2011
CD2.19	The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge)(Supplemental No. 2) Compulsory Purchase Order 2011.	December 2011
CD2.20	Statement of Reasons – SSRO and SCPO2.	
CD2.21	Letter of Objection (SSRO/SCPO2) – Mr C Murray	February 2012

3.0 TRAFFIC DOCUMENTS

CD3.1	Volume 12, Section 2, Part 1, Chapter 4, Table 4.2 from the Design Manual for Roads and Bridges (DMRB)
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CD3.2	Figures 5 and 10, Transport Innovation Fund Congestion Baseline Report by Thorgill Transport Consultancy	July 2007
CD3.3	Existing Data and Traffic Surveys Report by Jacobs	September 2011
CD3.4	Demand Model Report by Jacobs	September 2011
CD3.5	Highway Assignment Model Calibration and Validation Report by Jacobs	September 2011
CD3.6	Highway Assignment Model Traffic Forecasting Report by Jacobs	September 2011

4.0 HIGHWAY DESIGN

CD4.1(a)	Volume 5, Section 1, Part 3, TA 79/99 (Amendment No.1) from DMRB	
CD4.1(b)	Volume 6, Section 1, Part 1, TD 9/93 (Amendment No.1) from DMRB	
CD4.2	City of Sunderland Design Guide and Specification for Residential and Commercial Estates	1997
CD4.3	Techniker Design Statement	April 2010

5.0 PLANNING APPLICATION AND PLANNING POLICY

CD5.1	Planning Application for New Wear Bridge (09/04661/LAP) including: - 1) Environmental Statement (See Section 6) 2) SSTC Concept Report by SCC 3) Planning Report by WYG 4) Design and Access Statement by WYG 5) Statement of Community Involvement by WYG 6) CPO Property Register by Jacobs 7) Site Waste Management Framework by Faithful and Gould 8) Phase 1B Contaminated Land Desk Based Study by Entec 9) Flood Risk Assessment (Yellow Route) by Entec 10) River Wear Bridge Crossing Flood Risk Assessment by JBA 11) Temporary Works Flood Risk Assessment and Scour Prediction Report by HR Wallingford 12) Sustainable Transport Assessment by SCC	6 December 2009
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	13) Construction Report (Highways) by Arup	
	14) Drainage Impact and Utilities Assessment by Arup	
	15) Construction Traffic Assessment by Arup	
	16) Transportation Impact Assessment by Arup	
	17) Construction Report (Bridge) by Techniker	
	18) Summary Report (Bridge) by Techniker	
	19) Sustainability Appraisal by Entec	
	20) Lighting Assessment (Feature Lighting) by Techniker	
	21) Archaeological Monitoring Report by Durham University	
	22) Aboricultural Report by Barnes	
	23) Additional Bat Survey by Entec	
CD5.2	Development Control (South Sunderland) Sub Committee Report (identical Report submitted to North Sunderland Sub Committee)	2 February 2010
CD5.3	Planning and Highways Committee – Report and Minutes	29 April 2010
CD5.4	Planning Permission for Scheme (09/04661/LAP)	26 May 2010
CD5.4(a)	Letter from the Environment Agency	20 September 2011
CD5.5	Planning Policy Statement 1 – Delivering Sustainable Development	2005
CD5.6	Planning Policy Statement 4 – Planning for Sustainable Economic Growth	2009
CD5.7	Planning Policy Statement 5 – Planning for the Historic Environment	2010
CD5.8	Planning Policy Statement 9 – Biodiversity and Geological Conservation	2005
CD5.9	Planning Policy Guidance 13 – Transport	2011
CD5.10	Planning Policy Statement 23 – Planning and Pollution Control	2004
CD5.11	Planning Policy Statement 25 – Development and Flood Risk	2010
CD5.12	North East Regional Spatial Strategy to 2021	July 2008
CD5.13	City of Sunderland Unitary Development Plan, including Direction of Saved Policies	Adopted 1998
CD5.14	City of Sunderland Unitary Development Plan Alteration No. 2 (Central Sunderland), including Direction of Saved Policies	Adopted 2007
CD5.15	Extracts from Inspector's Report on Alternation No. 2	18 July 2007
CD5.16	Core Strategy (Draft Revised Preferred Options)	March 2010

6.0 ENVIRONMENTAL STATEMENT

CD6.0	Marine Survey Investigations Report by Fathoms	16 December 2008
CD6.1	Environmental Statement (Terrestrial and Estuarine Assessments) by Entec	December 2009
	1) Volume 1 – Non Technical Summary	
	2) Volume 2 – General Context	
	3) Volume 3 – Consideration of the Terrestrial Environment	
	4) Volume 4 – Consideration of the Estuarine Environment	
	5) Volume 5 – Overall Conclusions and Recommendations	
CD6.2	Ecological Mitigation Delivery Plan	February 2010
CD6.3	Phase 1 Habitat Survey by Entec	
CD6.4	Report on Planning Condition Status and Saltmarsh options by Jacobs	March 2011
CD6.5	Japanese Knotweed Treatment Plan by Jacobs	June 2011
CD6.6	Landscape and Ecology Management Plan by Jacobs	June 2011

7.0 ECONOMIC DEVELOPMENT

CD7.1	Sunderland Landmark Bridge Economic Appraisal by Genecon LLP	March 2007
CD7.2	Cabinet Report and Minute – Sunderland Economic Masterplan	21 July 2010
CD7.3	The Sunderland Economic Masterplan	September 2010
CD7.4	Review of Evidence to Support the Economic Case for the Enhanced New Wear Crossing, Sunderland by Genecon LLP	June 2011

APPENDIX 3**INQUIRIES DOCUMENTS LIST****SUNDERLAND CITY COUNCIL-Proofs of Evidence**

SCC1.1	Proof of Evidence - Mr D Abdy.
SCC1.2	Appendices - Mr D Abdy.
SCC1.3	Summary - Mr D Abdy.
SCC1.1A	Proof of Evidence and appendices (1.2.1A-1.2.3A) – Requested modifications to the Compulsory Purchase Order and Side Roads Order
SCC1.1B	Proof of Evidence and appendices (1.2.1B-1.2.12B) - Amended scheme Orders and funding – Mr D Abdy.
SCC2.1	Proof of Evidence - Mr E Wallage.
SCC2.2	Appendices - Mr E Wallage.
SCC2.3	Summary - Mr E Wallage.
SCC3.1	Proof of Evidence - Mr K Atkinson.
SCC3.2	Appendices - Mr K Atkinson.
SCC3.3	Summary - Mr K Atkinson.
SCC3.4	Proof of Evidence - Mr K Atkinson.
SCC3.5	Appendices - Mr K Atkinson.
SCC4.1	Proof of Evidence - Mr M Mattok.
SCC4.2	Summary - Mr M Mattok.
SCC5.1	Proof of Evidence - Mr G McGill.
SCC5.3	Summary - Mr G McGill.
SCC6.1	Proof of Evidence - Mr V Taylor.
SCC7.1	Proof of Evidence - Mr R Farr.
SCC7.2	Appendices - Mr R Farr.
SCC7.3	Summary - Mr R Farr.
SCC7.4	Updated position statement to statement of evidence - Mr R Farr.
SCC8.1	Sunderland City Council-Response to Objections.

OTHER INQUIRY DOCUMENTS

ID1	Notification of the Inquiries.
ID2	Statement of J Collinson, dated 10 October 2011.
ID3	Sunderland Arc Regeneration Plan-marked up to show potential Deptford crossing.
ID4	NWC/D/SCC/07/GEN/80014 -Traffic flow.
ID5	Statement of Captain DW Green.
ID6	SSTC project- records of contact with Port of Sunderland staff.
ID7	Plans submitted by SCC to NEPP.
ID8	Letter from Dickinson Dees to DfT, dated 12 October 2011 (agreement to SROa/CPOa).
ID9	SCC note-Human Rights Act points raised by NEPP.
ID10	SCC note-Access to Mr Murray's site.
ID11	SCC note-The CPA 1949 licence.
ID13	CPOb bundle of drawings and schedules.

ID14	Extract-DfT value for money assessments.
ID15	The Coast Protection Act 1949, Marine and Coastal Access Act 2009(MCAA)(extract), MCAA (Commencement No. 1 and Transitional Provisions) Order 2009, MCAA (Commencement No. 5 and Consequential and Transitional Provisions) Order 2011 and Harbours Act 1964 (extracts).
ID16	Sunderland Corporation Act 1972.
ID17	SCC note- Plots 17 & 18 and the compliance with statutory formalities.
ID18	SCC note- The acquisition of Statutory Undertakers land.
ID19	SCC note- Whether there is a need to advertise the modifications.
ID20	SCC cabinet meeting minutes, dated 13 October 2004.
ID21	Email from Carter Jonas (agent to The Crown Estate Commissioners) to SCC, dated 4 February 2011(draft Heads of Terms).
ID22	SCC note- NELEP Enterprise Zone Proposal.
ID23	Email from the MMO to SCC, dated 13 October 2011 (confirmation of FEPA/CPA application supporting documents).
ID24	SCC note-Injurious affection.
ID25	City of Sunderland Unitary Development Plan 1998 (Alteration No. 2) Central Sunderland adopted policies Proposals Map.
ID26	Email from SCC to the National Transport Casework Team (NTCT), dated 27 October 2011 (draft notice and supporting details).
ID27	Notice from the NTCT to scheduled addresses, dated 2 November 2011 (SROa).
ID28	Email from SCC to the NTCT, dated 9 November 2011 (SROa errata).
ID29	Letter from the NTCT to scheduled addresses, dated 10 November (SROa errata).
ID30	Email from SCC to the NTCT, dated 14 November 2011 (modified CPO/corrected Bridge Scheme schedule).
ID31	Email from Orange Box Self Storage Ltd to the NTCT, dated 22 November 2011 (consultation response).
ID32	Email from Timber Supplies Ltd to the NTCT, dated 23 November 2011 (consultation response)
ID33	Email from SCC to the NTCT, dated 24 November 2011 (supplementary SRO/CPO).
ID34	Email from SCC to the NTCT, dated 29 November 2011 (Timber Supplies premises).
ID35	Email from SCC to the NTCT, dated 1 December 2011 (Timber Supplies premises).
ID36	Email from SCC to the NTCT, dated 2 December 2011 (supplementary SRO/CPO time line).
ID37	Letter from Carter Jonas to the NTCT, dated 2 December 2011 (no objection/negotiations ongoing).
ID38	SCC record of executive decisions published 2 December 2011 (approval SSRO & SCPO2).
ID39	Email from SCC to NTCT, dated 16 December 2011 (programme of actions).
ID40	Email from SCC to NTCT, dated 19 December 2011 (notification clarification).
ID41	Email from SCC to NTCT, dated 20 January 2012 (withdrawal of Timber Supplies Ltd's objection).

ID42	Email from the Council to NTCT, dated 2 February 2012 (adjournment actions progress report).
ID43	Letter from SCC to NTCT, dated 10 February 2012 (SRO mods, CPO mods and funding confirmation).
ID44	Email from SCC to NTCT, dated 21 February 2012 (mods to SRO/CPO).
ID45	Letter from SCC to NTCT, dated 27 February 2012 (mods to CPO/SRO).
ID46	Notification letter and notice from NTCT to interested parties, dated 29 February 2012 (Inquiries resumption arrangements).
ID47	Letter from SCC to NTCT, dated 15 March 2012 (Report to Cabinet and Statement of Case for SCPO2 and SSRO).
ID48	Letter from SCC to NTCT, dated 27 March 2012 (Proof of evidence-Atkinson (SCC3.4/SCC3.5) and Protected Assets Certificate).
ID49	Letter from SCC to NTCT, dated 3 April 2012 (drawing no. 18E).
ID50	Email from SCC to NTCT, dated 13 April 2012 (SRO/CPO mods).
ID51	Statement of J Collinson, dated 16 April 2012.
ID52	NWC/D/SCC/07/GEN/800026 (plot boundary change between 17 and 15A).
ID53	The Tyne and Wear Development Corporation (Vesting of Land)(Borough of Sunderland) Order 1988 (HCA ownership).
ID54	Plan showing boundary of land the subject of a Church Commissioners' application for registration of land (to align with HCA records).
ID55	Letter from Carter Jonas to SCC, dated 16 April 2011 (Heads of Terms agreed).
ID56	Letter from SCC to the Land Registry, dated 10 April 2012 (objection to application for adverse possession).
ID57	NWC/D/SCC/07/GEN/800025 (new access to Timber Supplies Ltd).
ID58	SCC note-Agreement dated 30 March 2012 between (1) The Homes and Communities Agency (2) The Council for the City of Sunderland-Summary.
ID59	SROb bundle of sealed plans.
ID60	CPOc bundle of plans and schedules.
ID61	Land Registry – official copy of register of title TY361716.
ID62	Letter from Smiths Gore to SCC, dated 17 April 2012 (Heads of Terms progress).
ID63	Land Registry – official copy of register of title TY341469.
ID64	SCC note – position relative to the Regional Spatial Strategy and the National Planning Policy Framework.
ID65	Letter from Dickinson Dees to NTCT, dated 17 April 2012 (agreement to proposed SROb and CPOc modifications).
ID66	SCPO2-modified schedule
ID67	Regina (Smith) v Land Registry (Peterborough) [2010] EWCA Civ 200 ([2011]QB 413).

APPENDIX 4

SCHEDULE OF PROPOSED MODIFICATIONS

	Definition
SROa	SCC1.1A Appendix 1.2.1A.
SROb	SCC1.1B Appendix 1.2.7B and Appendix 1.2.6B (for sealed plans see ID59-NWC/SCC/07/GEN/80005B, 80007B and 80008B).
CPOa	SCC1.1A Appendix 1.2.2A and Appendix 1.2.3A.
CPOb	ID13.
CPOc	SCC1.1B Appendix 1.2.8B (NWC/D/SCC/07/GEN/800018F) and Appendix 1.2.9B (for additional copies see ID60).
SCPO2a	Amendments to the SCPO2 schedule: add to column (2) of plot 2 ' <i>All interests therein except those owned by the acquiring authority.</i> '; and, amend column (3) owners or reputed owners of plot 2 to read ' <i>Part unknown and part Sunderland City Council, PO BOX100, Civic Centre, Sunderland, SR2 7DN.</i> '
NWBa	Amend The Schedule to the Scheme under the heading of <u>SPAN</u> , from ' <i>A double plan of 336 metres overall</i> ' to ' <i>A double span of 336 metres overall</i> '.
NWBTa	Amend The Schedule to the Scheme under the heading of <u>WATERWAY</u> , from ' <i>A minimum clear navigable waterway of 37 metres</i> ' to ' <i>A minimum clear navigable waterway of 27 metres</i> '.

APPENDIX 5

ABBREVIATIONS

approved Scheme	The scheme the subject of planning permission Ref. 09/04461/LAP granted on the 26 May 2010.
ABP	Alexandra Business Park.
ALA	The Acquisition of Land Act 1981 (as amended).
CC	The Church Commissioners.
CE	The Crown Estate.
CG	Captain D W Green.
CM	Mr C Murray.
CPO	The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge) Compulsory Purchase Order 2009.
CPOa	See Appendix 4 Schedule of proposed modifications.
CPOb	See Appendix 4 Schedule of proposed modifications.
CPOc	See Appendix 4 Schedule of proposed modifications.
DD	Dickinson Dees.
DfT	The Department for Transport.
HA	Highways Act 1980 (as amended).
HCA	The Homes and Communities Agency.
HHF	Harbour House Farms.
MBA	Mr M B Anderson.
MMO	Marine Management Organisation.
MR	Matalan Retail Ltd.
NEPP	The North East Property Partnership Ltd.
NWB	The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge) Scheme 2009.
NWBa	See Appendix 4 Schedule of proposed modifications.
NWBT	The Sunderland City Council (Sunderland Strategic Transport Corridor-Temporary Works New Wear Bridge) Scheme 2009.
NWBTa	See Appendix 4 Schedule of proposed modifications.
OB	Orange Box Self Storage Ltd.
O&H	O&H Q7 Ltd.
ODPM	The Office of the Deputy Prime Minister.
SCA	Sunderland Corporation Act 1972.
SCC	Sunderland City Council.
SCPO1	The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge) (Supplemental) Compulsory Purchase Order 2011.
SCPO2	The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge) (Supplemental No. 2) Compulsory Purchase Order 2011.
SCPO2a	See Appendix 4 Schedule of proposed modifications.
SEPMC	The Sunderland Enterprise Park Management Company.
SoS	The Secretary of State for Transport.
SRO	The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge A1231 and B1405 Classified Roads (Side Roads) Order 2009.
SROa	See Appendix 4 Schedule of proposed modifications.
SROb	See Appendix 4 Schedule of proposed modifications.

SSRO	The Sunderland City Council (Sunderland Strategic Transport Corridor-New Wear Bridge A1231 and B1405 Classified Roads (Side Roads) (Supplemental) Order 2011.
SSTC	Sunderland Strategic Transport Corridor.
TS	Timber Supplies Ltd.