

Proof of Evidence (Evidence in Chief)

**THE CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL (HARROGATE ROAD/NEW LINE JUNCTION IMPROVEMENTS) (SIDE ROADS) ORDER 2017**

**THE CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL (HARROGATE ROAD/NEW LINE JUNCTION IMPROVEMENT SCHEME) COMPULSORY PURCHASE ORDER 2017**

**THE HIGHWAYS ACT 1980**

**-and-**

**THE ACQUISITION OF LAND ACT 1981**

**THE HIGHWAYS (INQUIRIES PROCEDURE) RULES 1994**

**COMPULSORY PURCHASE (INQUIRIES PROCEDURE) RULES 2007**

**National Transport Casework Team (REFERENCE: NATTRAN/YH/LAO/149)**

**in the matter of**

**a highway improvement scheme involving highway alterations to improve and widen the A658 Harrogate Road from a point 70 metres north east of its junction with Carr Bottom Road, south westwards to a point 25 metres south west of its junction with Stanley Street and the A657 New Line from a point 45 metres north west of its junction with Haigh Hall Road, south eastwards to its junction with Elder Street, Bradford and a new 60 metres long one-way link road between Harrogate Road and New Line, Bradford in the County of West Yorkshire**

**Proof of Evidence of:**

**Kathryn Okell MRICS**

**Associate Partner, Axis Property Consultancy**

**(Document Reference: P04/KO/Land and Property)**

**presented as evidence in chief on behalf of  
The City of Bradford Metropolitan District Council**

**to**

**Local Public Inquiry – 6<sup>th</sup> November 2018**

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## **1.0 Introduction and Scope of Evidence**

1.1 I have been instructed by The City of Bradford Metropolitan District Council (CBMDC) to provide evidence in respect of the proposed compulsory purchase of land under The City Of Bradford Metropolitan District Council (Harrogate Road/New Line Junction Improvements) (Side Roads) Order 2017 (the 'SRO') (see Core Document 21.1.17) and The City Of Bradford Metropolitan District Council (Harrogate Road/New Line Junction Improvements) Compulsory Purchase Order 2017 (the 'CPO') (see Core Document 21.1.15).

1.2 My evidence concerns Land and Property matters arising from the proposed Harrogate Road/New Line improvement scheme (the 'Scheme'). Evidence dealing with other issues raised by objectors specifically in relation to policy and justification, design, engineering and funding has been dealt with by other witnesses for CBMDC within their own Proofs of Evidence.

1.3 My Statement of Evidence is set out as follows:

**Section 1** – sets out the Introduction and content of my statement of evidence

**Section 2** – details my qualifications and experience

**Section 3** – provides background information to the Scheme

**Section 4** – describes the Order Land.

**Section 5** – outlines the efforts that have been made to acquire the Order land by agreement.

**Section 6** – summarises and responds to the objections.

**Section 7** – demonstrates how I believe that the requirements of the Guidance on Compulsory Purchase Process and The Crichel Down Rules for the disposal of Surplus Land Acquired by, or under the threat of, Compulsory Acquisition (October 2015) ('the CPO Guidance') are met.

**Section 8** - contains my summary and conclusions that the land included in the Order is required for the delivery of the Scheme and that reasonable attempts have been made to acquire the land by agreement.

**Section 9** – contains my declaration.

## **2.0 Name and Qualifications**

2.1 My name is Kathryn Louise Okell BSc (Hons) MSc MRICS.

2.2 I was elected a Member of the Royal Institution of Chartered Surveyors (General Practice Division) in 2007, am a Registered Valuer and am a member of the Compulsory Purchase Association (CPA).

2.3 I am an Associate Partner at Axis Property Consultancy LLP and have held this position since 2015. Prior to this, I was an Associate Director at Lambert Smith Hampton (LSH) (2011- 2015), a Senior Surveyor (2009-2011), Surveyor (2007-2009) and Graduate Surveyor (2005-2007). Throughout my employment I have specialised in the field of valuation with a focus on land acquisition and compulsory purchase and compensation.

2.4 I provide advice to both local authorities and claimants on land assembly, the use of compulsory purchase powers and Compulsory Purchase Order (CPO) process and the assessment of compensation for parties affected. I currently advise:

- The City of Bradford Metropolitan District Council (CBMDC) in relation to the compulsory acquisition and negotiation of compensation claims at Hard Ings Road, Keighley.
- South Yorkshire Passenger Transport Executive (SYLTE) in relation to the assessment of compensation relating to the compulsory acquisition of Park and Ride premises in Doncaster.
- Transport for Greater Manchester (TfGM) in relation to the assessment and negotiation of compensation claims arising from Metrolink Phase 3 and Bolton Ground Transport Interchange.
- Warrington Borough Council (WBC) in relation to the assessment and negotiation of compensation claims arising from various road schemes including the Omega to Burtonwood Accessibility Improvements Scheme, the A57 Liverpool Road/Lingley Green Avenue Junction Improvements Scheme and the Warrington Waterfront Western Link Scheme.

- Manchester Airport Group (MAG) in relation to the acquisition of land at Airport City.
  - Private Claimants affected by various CPOs including for example, HS2.
- 2.5 This work has involved the inspection, valuation and negotiation of a number of different types of compensation claims which have arisen as a consequence of the development of infrastructure or regeneration schemes underpinned by a CPO. The claims have included but not been limited to: compensation for land taken; injurious affection; disturbance (including business extinguishment) and 'Section 10' claims (claims where no land is taken).
- 2.6 Axis Property Consultancy ('Axis') have been appointed to provide land assembly, CPO and compensation advice to CBMDC (the 'Acquiring Authority'). Our instructions were to acquire, on its behalf, the property interests and rights necessary for the proposed Harrogate Road/New Line Improvement Scheme. This instruction included establishing contact with landowners and negotiating for the acquisition of their land/interest by agreement and providing strategic compulsory purchase advice.
- 2.7 Since the CPO was made, our remit has also included liaising with those objectors from whom CBMDC is seeking to acquire legal interests and rights with the aim of resolving the objectors' issues and securing the removal of their objections.
- 2.8 The purpose of my proof is to:-
- show the efforts that have been made by the Acquiring Authority and their agents in seeking to achieve negotiated settlements in respect of the proposed acquisitions for the scheme prior to the application for a Compulsory Purchase Order;
  - detail how the Acquiring Authority has sought to satisfy the CPO Guidance on the use of compulsory purchase powers;
  - discuss the objections and the efforts that have been undertaken to remove them.

2.9 I will refer to documentation and open correspondence that has been sent to claimants, as well as detailing meetings that have taken place as part of the effort to reach agreement.

2.10 As negotiations will continue beyond the submission of my Proof of Evidence, I will provide an update on progress in respect of all outstanding objections at the Inquiry.

### **3.0 Background to the Scheme**

3.1 The background to the Scheme is outlined in the Proof of Evidence prepared by Mr Ben McCormac (see Proof P01/BMC/General Overview), Programme Manager at the Council. This proof of Evidence provides:-

- A description of the land
- An overview of the proposed Scheme
- Explanation as to why the Scheme is needed
- Details of the aims and objectives of the Scheme

3.2 As these are all matters covered in some detail within Mr. McCormac's evidence, I do not provide any further commentary on the Background to the Scheme.

3.3 The Side Roads Order (SRO) was made on 19 December 2017 (see Core Document 21.1.17). The Compulsory Purchase Order (CPO) was made on 21 December 2017 (see Core Document 21.1.15). Both Orders were submitted to the Secretary of State for Transport for confirmation on 24 January 2018.

#### **4. Description of The Order Land**

- 4.1 Details of the land and interests to be acquired are set out in the Order Schedule and are shown shaded pink on the Order Map which accompanies it (see Core Document 21.1.16).
- 4.2 The majority of the land contained in the Order is shown coloured pink on the Order Map however, for technical drafting reasons, the land needed for “working space” (as opposed to land needed for the actual physical highway construction) is not able to be distinguished separately and is therefore together shown as one Plot of land coloured pink. Where this occurs, the Council is seeking to only acquire that part of the land needed for construction purposes; land required temporarily during the construction period will, if possible, be obtained under licence by agreement. Nevertheless this land is included in the Order coloured pink in the hope that it will not prove necessary as a last resort to rely on the use of compulsory purchase powers to acquire the whole of the land.
- 4.3 A summary of why it is necessary to acquire the Order Land, together with a description of the Order Land itself is set out in Mr Ben McCormac’s Expert Report (see Proof P01/BMC/General Overview, Appendix 1). Nevertheless it can broadly be described as comprising land adjoining commercial and residential properties which is used for car parking, pavement frontage or forms part of gardens or landscaping. Some of the land comprises private means of accesses and there is also a section of land that is temporarily being used as a community garden. The Order land also includes part of a vacant retail warehouse property, two further retail properties and land adjoining the listed Grade II war memorial gardens.

#### **5. Efforts to Acquire by Agreement**

- 5.1 Axis were instructed by CBMDC in November 2015 to make contact with all land owners and occupiers affected by the proposed Scheme. The purpose of this exercise was to invite the owners and occupiers to enter into negotiations with a view to agreeing acquisitions of their respective interests on a voluntary basis.

- 5.2 In response to the instruction, Axis sent out introductory letters asking people to contact the writer to arrange a meeting to discuss the Council's proposals for a road improvement scheme. This correspondence was followed by a similar letter in early 2016 to those who had not responded.
- 5.3 In the subsequent months, meetings took place with affected landowners and occupiers whereby Axis, together with Council Officers, explained the Council's intention to improve the Harrogate Road and New Line junction, and its desire to seek agreement to purchase the land and property interests that would be required to deliver the Scheme.
- 5.4 Since these initial meetings, Axis has continued dialogue with affected landowners and occupiers and where possible have progressed negotiations with willing parties. Various meetings have taken place, some of which have been attended by the Council's engineers to discuss technical matters arising from the proposals and possible accommodation works that could be undertaken as part of the project. All correspondence relating to the proposed acquisition has been issued by either the Council or Axis.
- 5.5 The Council has also undertaken a formal public consultation process. This was carried out during August and September 2016 and included a 'drop-in' event which gave members of the public and stakeholders an opportunity to view the plans and discuss the proposals with members of the project team. Details of the consultation process is described further in Mr McCormac's proof of evidence (see Proof P01/BMC/General Overview, Para 3.8). Since the consultation period the Council has continued to work with all affected parties.
- 5.6 As land assembly was unlikely to be completed by private treaty, on 1<sup>st</sup> December 2015 the Council's Executive Committee resolved to promote a Compulsory Purchase Order and a Side Roads Order to facilitate the Scheme. The decision was modified by the Council on 7<sup>th</sup> March 2017.
- 5.7 A summary of the efforts that have been made to acquire the other interests in property outside of the Council's ownership required for the scheme by agreement is included at Appendix 1.



5.8 Through the above process, CBMDC has acquired, or has obtained agreements in principle, with the following land owners and occupiers in advance of the CPO and SRO:-

- Plot 11 – Land adjacent to Farmfoods Supermarket (freehold interest)
- Plots 10 and 21 – Land adjacent to Farmfoods Supermarket (freehold and leasehold interests)
- Plot 13 – Land at No. 40 Stockhill Road (freehold interest)
- Plot 19 – 911 Harrogate Road (Leasehold interest)
- Plot 20 – 913/915 Harrogate Road (Freehold interest)
- Plots 27, 28 and 29 – Land fronting 138, 138a and 138b New Line (Freehold interest)
- Plot 35 – Land fronting 148 New Line (freehold interest)
- Plot 27 – Land fronting 150a New Line (Freehold interest)
- Plots 38, 38a and 40 – Land fronting and to the rear of Greengates House (Freehold interest)
- Plot 26 – 804 Harrogate Road – Part vacant shop and car park (freehold interest)
- Plot 30 – Land at 140 New Line

## 6. Summary of Objections

6.1 Seven objections (the ‘Objectors’) were received in respect of the Order and these are listed below. At the time of completing this report, three have been formally withdrawn.

Remaining Objections				
OBJ Ref No.	CPO Plot Ref	Objector Name	Property	Comment
OBJ/1	19	St. Paul Street Investments Ltd	911 Harrogate Road	Terms agreed. Objection likely to be removed
OBJ/2	42	Optegra UK Ltd	Optegra Eye Hospital, 937 Harrogate Road	Objection Remains

OBJ/3	9	Striven Services Ltd T/A Subway	74 New Line Retail Park	Objection remains
OBJ/4	20	Ladbrokes Coral Group	913 Harrogate Road	Objection Remains
<b>Objections That Have Been Removed</b>				
OBJ/5	26	Wilkinson Greengates Properties Ltd	804 Harrogate Road	Objection now removed
OBJ/6	30	Mr & Mrs Lock	140 New Line	Objection now removed
OBJ/7	N/A	Northern Powergrid (NE) Ltd	In respect of Statutory Undertakers Plant and Equipment	Objection now removed

6.2 The main issues raised by the remaining Objectors relate to:-

- the design of the scheme;
- the impact on businesses during and after construction works;
- the 'public interest' test;
- the extent to which CBMDC has negotiated by agreement in advance of using CPO powers.

6.3 Where the objection relates to land and property matters concerning discussions to date I address these matters directly. Where the nature of the objection pertains to other matters such as the requirement for the land or design of the Scheme, I refer to the relevant expert's evidence.

6.4 **OBJ/1 – St Paul Street Investments Ltd (plot Ref. 19)**

6.5 The objector is an investor Landlord of a retail shop which is situated at 911 Harrogate Road. A summary of the objection is in bold font below, together with my response.

6.6 **The subject property is required to facilitate a new access arrangement to the neighbouring retail park (occupied by Farmfoods Supermarket). This will deprive the Objector of their investment and income.**

- 6.7 The objector has received an offer of compensation in accordance with the Statutory Compensation Code and terms are close to being agreed (copies of correspondence can be seen in Appendix 2). The compensation settlement can be used to replace the investment so that there is no overall loss to the objector. Notwithstanding this, the issue of compensation is not considered to be a relevant ground for objecting to the CPO.
- 6.8 **It is proposed that access arrangements (to the neighbouring retail park) should be redesigned to co-exist with and preserve the Objector's property.**
- 6.9 The Council initially met with the objector in December 2015 and the objector subsequently appointed a professional advisor. Negotiations and discussions have taken place since this time, during which no fundamental reservations to the Scheme were raised.
- 6.10 Notwithstanding the above, the Council considered a number of options for access into the adjacent Farmfoods property. These included the possibility of locating a new entrance off New Line, acquiring other properties along Harrogate Road and a 'do nothing' scenario. These options were assessed having regard to matters such as engineering feasibility, construction and compensation costs, impact on employment, highway safety etc.
- 6.11 Overall the Council concluded that the proposed Scheme offered the best solution which would:-
- a) Reduce the potential for congestion and collision;
  - b) Reduce expenditure of public money;
  - c) Reduce potential for job losses.
  - d) Reduce overall scheme costs.
- 6.12 The preferred solution is considered to, on balance, offer the optimum solution at best value to the public purse whilst still achieving the objectives of the Scheme. It also has the additional benefit of providing some replacement on-street car parking which will be lost through the proposed Traffic Regulation Order, thereby taking into

account concerns raised from other local stakeholders, e.g. businesses and residents.

6.13 Since the objection has been received, Axis has continued to negotiate with the objector to reach an agreement in relation to compensation. Negotiations with the objector are ongoing and it is hoped that terms will be agreed which will facilitate the removal of this objection in the near future.

6.14 **OBJ/2 – Optegra UK Ltd – (Plot Ref. 42)**

6.15 The objector is the owner occupier of an eye hospital which is situated at 937 Harrogate Road. A summary of the objection is in bold font below together with my response.

6.16 **There is no compelling case in the Public Interest to acquire land and/or rights over Plot 42 in the manner proposed in the Order.**

6.17 This matter is addressed more fully in the evidence of Mr Mark Baker, Senior Engineer at the Council (see Proof P02/MB/Design & Engineering). In summary however, this plot is required to facilitate the widened highway and to construct a bus-shelter. Widening is restricted to the western side of Harrogate Road due to the presence of a listed building, Greengates House, on the eastern side. If Plot 42 is not included in the Order, the Scheme would not work sufficiently because of a lack of space to construct the additional lane.

6.18 **The Order creates an unacceptable impact on the hospital and its vulnerable patients. Most patients are elderly, visually impaired and rely on private means of transport to and from the hospital. Car parking provision at the hospital is already limited and options need to be considered as to how any loss can be replaced.**

6.19 Axis and the Council met with the objector on 12 April 2018 where this matter was discussed. It was also followed up in a letter on 20 June 2018 (see Appendix 3).

6.20 During the abovementioned meeting and in the subsequent correspondence, the Council offered to undertake accommodation works which would enable the car park to be reconfigured in such a way that there would be no permanent loss of parking spaces. This offer is currently being considered by the objector.

- 6.21 In addition to the above the Council has confirmed that it will require its contractor to agree contractual clauses to:-
- programme its works in a manner which minimises disruption to the public and businesses whilst still working in an efficient manner; and
  - submit its works programme to the Council for approval.
- 6.22 The Council has also explained that it will monitor the works to ensure that they are carried out in a timely manner.
- 6.23 In light of the above I am of the opinion that the Council is making reasonable provisions to minimise any impact on the hospital and to ensure that disruption is kept to a minimum during the construction works.
- 6.24 **The temporary use of the hospital car park for construction will further reduce the number of parking spaces available at the hospital for an unspecified period of time and make access to the hospital even more difficult for patients, staff and suppliers. Further consideration needs to be given to reducing the area set aside for construction in this location so that impact can be mitigated.**
- 6.25 During our meeting with the objector, the Council explained that it was in the process of negotiating a temporary car parking arrangement in close proximity of the property. This temporary solution is in the process of being formalised and it is hoped that by the time of the Public Inquiry, the Council will be able to guarantee this provision and formally commit to provide this facility.
- 6.26 **The hospital houses calibrated and highly sensitive equipment which may be impacted by vibration and dust pollution from the proposed construction works due to take place in the areas immediately adjacent to the hospital. Technical information on this equipment needs to be reviewed by the council so that assurances can be given that the potential impact can be mitigated through on site monitoring and incident reporting.**
- 6.27 The Council has asked the objector to supply technical vibration tolerance information on several occasions. This information was not provided however the

objector subsequently confirmed in emailed correspondence dated 8<sup>th</sup> August 2018 that the proposed works are no longer expected be an issue in terms of vibration tolerances (relevant correspondence can be found in Appendix 3). As such, I do not consider this matter to be an outstanding issue.

6.28 **The council has not made reasonable efforts to engage with Optegra either to understand the implications or to acquire the property and rights required by agreement, and has not fully explored alternative solutions not requiring compulsory purchase. Under DCLG's Guidance Note (29/10/2015), the acquiring authority is required to make reasonable efforts to acquire the property by agreement. Our client is not satisfied that the council has made reasonable efforts to engage in meaningful negotiations.**

6.29 Discussions in relation to the subject property and the Scheme have been progressed by the Council or Axis since as early as 2015. Axis first wrote to the Objector in October 2015 and a meeting took place thereafter. The Council subsequently wrote to the Objector in March 2016 and January 2017. In each letter, details of Axis were provided however this did not prompt any dialogue. A Public Consultation event was also held during August/September 2016 to which the Objector was invited. Axis wrote a further letter to the Objector in January 2018 but did not receive a response. Copies of relevant correspondence can be found at Appendix 3).

6.30 Apart from the initial meeting with Optegra, Axis did not receive any dialogue from the objector until after the objection had been made in February 2018 when CBRE were instructed to act on their behalf.

6.31 Having regard to the above, I am therefore of the opinion that reasonable attempts to engage with the Objector took place prior to the making of the Order and the requirements of Government Guidance have been met.

6.32 Notwithstanding the above it is clear from Government Guidance (2015) that a CPO can be pursued at the same time as negotiations are progressing. In accordance with this guidance, a meeting took place on 12 April 2018 where the grounds of objection were discussed. Since this meeting, there has been an exchange of various

correspondence (see correspondence in Appendix 3) and all efforts will continue to see if terms can be agreed which will facilitate the removal of this objection.

6.33 **OBJ/3 Sriven Services Ltd – (Plot Ref. 9)**

6.34 The objector is an occupier of retail premises at New Line Retail Park and operates a business which trades as “Subway”.

6.35 Since the objection was lodged in respect of the Order, Axis and the Council have met with the objector on two occasions to discuss their concerns further and this dialogue is ongoing. On both occasions, this was followed up with correspondence to address the matters discussed, copies of which are included at Appendix 4.

6.36 A summary of the objection is in bold font below together with my response.

6.37 **The Council’s proposal will drastically spoil the frontal elegance for the shops.**

6.38 Together with the Council, Axis met with the objector on 4 April 2018 where it was acknowledged that the proposed scheme may have an impact on the frontal elegance of the retail parade, however it was explained that the proposals would also benefit the retail parade by improving visibility (which is currently below desirable standards) and by providing a newly surfaced car parking area. This was explained in more detail in a letter of 18 June 2018 (copy included in Appendix 4).

6.39 **The Council’s proposal will create congestion in the reduced front area.**

6.40 This is addressed more fully by Mr Baker in his Proof of evidence (see Proof P02/MB/Design & Engineering, Para 13.3.0) however in summary, the Council has confirmed to the objector, that the new access and internal roadways have been designed using current design procedures and guidance and they are considered appropriate for the proposed use. The Council has tracked vehicle positions and plans have been provided (to the objector) showing how traffic movements can be safely undertaken. These assurances can be seen in the letter of 18 June 2018 (at Appendix 4).

6.41 **The Council’s proposal will entail a longer drive to reach parking areas and a longer walk to the objector’s shop.**

- 6.42 During our meeting with the objector and in subsequent correspondence, Axis and the Council have explained that whilst the vehicular entrance will move approximately 40m to the west (entailing a marginally longer drive for customers travelling from the east), this is negated by a reduced drive for customers travelling from the west. There should be no impact for customers arriving on foot.
- 6.43 **The Council's proposal will adversely affect the objector's business operations, already made unsustainable due to Brexit and the pound depreciating by about 20%.**
- 6.44 During meetings with the Objector and in subsequent correspondence, the Council has explained how its contractor will be expected to programme its works in a manner which minimises disruption to the public and businesses.
- 6.45 Nevertheless, in the event that the objector's business is disrupted directly by the scheme, compensation would be payable for any such losses in accordance with the statutory Compensation Code. Axis has confirmed that the Council will fully apply their statutory rights (see emailed correspondence of 15 August 2018 in Appendix 4).
- 6.46 Axis has encouraged the objector to seek independent professional advice to advise them further on compensation matters and has confirmed that the reasonable fees of such advice will be reimbursed by the Council. The Objector has recently advised that she is in the process of seeking professional advice, although at the time of writing Axis has not heard from any advisor.
- 6.47 In light of the above I am of the opinion that the Council has made reasonable assurances to the Objector.
- 6.48 **The Council's proposal will affect the livelihood of employees working in shops in the retail parade.**
- 6.49 The Council has explained during meetings and Axis has confirmed in subsequent correspondence that during the works all reasonable steps will be taken to minimise the impact of construction on businesses and residents. This will involve contractual clauses obligating the contractor to working methods best suited to achieve this.



The council will closely monitor the impact of the construction works to ensure these measures are applied.

6.50 Discussions with the objector remain ongoing and the Council hopes that it will be able to reach an agreement which will facilitate the removal of this objection.

6.51 **OBJ/4 Ladbrokes Coral Group – (Plot 20)**

6.52 The objector holds a leasehold interest in a retail premises located at 913 Harrogate Road and trades as a Coral bookmakers. Since the objection was lodged, Axis and the Council have met with the objector to discuss their concerns further. This was followed up with correspondence to address the matters discussed, copies of which are included at Appendix 5.

6.53 A summary of the objection is below in bold font, together with my response.

6.54 **Acquisition of the premises is solely to facilitate a new access into the Farmfoods at the rear and we fail to see how it is in the public interest to favour one commercial occupier over another.**

6.55 It is accepted that the acquisition of this plot is to facilitate a new entrance to the Farmfood's store. The need for relocating this entrance is dealt with in Mr Baker and Mr Bradshaw's evidence (see Proofs P02/MB/Design & Engineering, Para 13.4 and P08/AB/Transport Modelling, Para 8 respectively). Nevertheless I disagree that the Council has favoured one business over another. In arriving at the decision to include Plot 20 in the Order the Council considered a number of options (detailed below at para 6.58). In assessing these options, the Council also considered the overall impact of the scheme such as potential for loss of employment, difficulties of business relocation and cost to the public purse.

6.56 Whilst the proposed Scheme does affect two retail premises at Harrogate Road (Nos. 911 and 913), the business at 911 has already relocated to nearby premises and the building is now vacant. The remaining business (this being the Objector's business at 913) occupies a relatively small retail unit and whilst a relocation is by no means straightforward, it is not insurmountable. On balance, it was considered to be the best solution in the circumstances.

6.57 **Inclusion of the property in the CPO has been made arbitrarily rather than adopt other options to facilitate the scheme.**

6.58 As stated earlier, a number of options were considered prior to including Plot 20 in the CPO and therefore I disagree that the decision has been made arbitrarily. The options included the possibility of locating a new entrance off New Line, acquiring other properties along Harrogate Road and a 'do nothing' scenario. These options were assessed having regard to matters such as engineering feasibility, construction and compensation costs, impact on employment etc.

6.59 Overall the Council concluded that the proposed Scheme offered the best solution which would:-

- a. Reduce the potential for congestion and road traffic accidents;
- b. Reduce the expenditure of public money;
- c. Reduce the potential for job losses;
- d. Reduce overall scheme costs.

6.60 I would also comment that initial dialogue with the objector commenced in August 2016 and since this time, no fundamental reservations to the Scheme, or the inclusion of this property in the CPO have been previously raised.

6.61 Since the objection was received, Axis has continued to negotiate with the objector to reach an agreement which may facilitate the removal of this objection. Negotiations with the objector are ongoing (relevant correspondence can be seen at Appendix 5).

## **7. Compliance with DCLG Guidance on the Compulsory Purchase Process**

7.1 In accordance with the Guidance on Compulsory Purchase Process and the Crichel Down Rules for the disposal of surplus land acquired by, or under threat of compulsion (October 2015) (the 'Guidance'), CBMDC has sought to acquire the Order Land wherever possible by means of agreement rather than by compulsory purchase.

7.2 During the preparation and making of the Order, CBMDC has fully considered all of the Guidance but specifically paragraphs 2, 3, 16, 17 and 18 which relate to the acquisition of land by agreement.

7.3 Extracts from these paragraphs are set out as follows:

7.4 *2. Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. However, if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost. Therefore, depending on when the land is required, it may often be sensible, given the amount of time required to complete the compulsory purchase process, for the acquiring authority to:*

- *plan a compulsory purchase timetable as a contingency measure; and*
- *initiate formal procedures*

*This will also help to make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.*

7.5 *3. In order to reach early settlements, public sector organisations should make reasonable initial offers, and be prepared to engage constructively with claimants about relocation issues and mitigation and accommodation works where relevant.*

7.6 *16. Undertaking negotiations in parallel with preparing and making a compulsory purchase order can help to build a good working relationship with those whose interests are affected by showing that the authority is willing to be open and to treat their concerns with respect. This includes statutory undertakers and similar bodies as well as private individuals and businesses. Such negotiations can then help to save time at the formal objection stage by minimising the fear that can arise from misunderstandings.*

7.7 *18. Compulsory purchase proposals will inevitably lead to a period of uncertainty and anxiety for the owners and occupiers of the affected land. Acquiring authorities should therefore consider...*

- *...offering to alleviate concerns about future compensation entitlement by entering into agreements about the minimum level of compensation which would be payable if the acquisition goes ahead (not excluding the claimant's future right to refer the matter to the Upper Tribunal (Lands Chamber))*
- *...where appropriate, give consideration to funding landowners' reasonable costs of negotiation or other costs and expenses likely to be incurred in advance of the process of acquisition*

7.8 CBMDC has undertaken to meet the reasonable professional fees and costs incurred by those parties with whom it has been negotiating and those affected land owners and occupiers the authority has invited to treat with it.

7.9 CBMDC has sought to provide general updates in relation to the scheme and has met with land owners and occupiers to provide more detail and answered queries on technical matters where requested to do so.

7.10 CBMDC has acquired property in advance of the Order where it has been possible to do so. It has also reached provisional agreements where possible to do so. Details of these agreements are set out in Section 5.

7.11 CBMDC will continue to make all reasonable efforts to progress negotiations by agreement in accordance with this guidance.

## **8. Conclusions**

8.1 The acquiring authority has made reasonable attempts to reach agreement with landowners in advance of compulsory acquisition.

8.2 Negotiations to acquire land have been ongoing with the Objectors since the Order was submitted.

8.3 CBMDC continues to work with affected parties and will endeavour to reach agreement wherever practically possible without the use of compulsory purchase powers.

8.4 A further update on progress relating to the outstanding objections will be provided during the Public Inquiry.

8.5 In summary, I am of the view that the Council have advanced a compelling case to justify the Orders being confirmed in the public interest to ensure that the Council, acting on its behalf, will be able to use compulsory purchase powers, should the use of such powers be required as a last resort, to acquire for the purposes of the Orders, all the land and rights needed to promote, deliver and facilitate the proper construction to improve and widen:-

- the A658 Harrogate Road from a point 70 metres north east of its junction with Carr Bottom Road, south westwards to a point 25 metres south west of its junction with Stanley Street; and
- the A657 New Line from a point 45 metres north west of its junction with Haigh Hall Road, south eastwards to its junction with Elder Street, Bradford;

and construct a new 60 metres long one-way link road between Harrogate Road and New Line, Bradford in the County of West Yorkshire.

## **9. Declaration and Statement of Truth**

- 9.1 I confirm that my duty to the Inquiry as an expert witness overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in giving my evidence impartially and objectively and that I will continue to comply with that duty.
- 9.2 I confirm that my expert evidence includes all facts which I regard as being relevant to the opinions I have expressed and that attention has been drawn to any matter that would affect the validity of those opinions.
- 9.3 I am not instructed under any conditional fee arrangement and have no conflict of interest.
- 9.4 I confirm that I have made clear which facts and matters referred to in this proof of evidence are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.
- 9.5 I confirm that my report complies with the requirements of RICS – Royal Institution of Chartered Surveyors, as set down in the RICS practice statement *‘Surveyors acting as expert witnesses’*.

Dated 11<sup>th</sup> October 2018