

Dated: 4 September 2024

A28/A291 Sturry Link Road, Canterbury, Kent

Compulsory Purchase Order

Proof of Evidence

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1.0 Introduction

- 1.1 I am a Project Manager employed by Kent County Council (KCC, also referred to as 'the Council' throughout this proof) to manage projects within the Major Capital Programme team. The team is responsible for the delivery of major schemes from £1m to £100m, taking the projects through concept, fund identification and bidding, feasibility, site assessment, planning and statutory procedures and detailed design stages and on to delivery through procurement and management of works contracts.
- 1.2 I have an HNC in Civil Engineering and over 45 years' relevant experience in the planning, statutory procedures, design, and construction management of highway schemes.
- 1.3 I have been a Project Manager within the Major Capital Programme team for the past 9 years and, in addition to the Sturry Link Road scheme, I have been responsible for delivering the following schemes:
- Swale Housing Infrastructure Fund (HiF) schemes – a £38.6m project to deliver highway improvements on the A249 at the junctions of Key Street and Grovehurst Road near Sittingbourne.
 - A2500 Barton Hill Drive and A2500 Lower Road, Minster on the Isle of Sheppey - a £6.6m project to provide a junction improvement at Barton Hill Drive and the Improvement of the A2500 to Cowstead Corner.
 - M20 Junction 4 Eastern Overbridge Widening and junction improvement. A £6.2m project to widen an existing bridge over the M20 at J4. This involved working in close liaison with National Highways.
 - Rathmore Road Improvement – a £9.5m scheme to provide an alternative route for traffic through Gravesend. The scheme involved agreements with Network Rail and a high quality public realm element to remove the severance from Gravesend Station with the town centre.
- 1.4 Prior to joining the Council, I was a Principal Engineer with Jacobs working as the lead highway designer and the designer's site representative on the Bexhill to Hastings Link Road, an ECI (early contractor involvement) contract for East Sussex County Council with an approximate value of £85m. The works involved 6km of new highway, including 20 structures and an environmental mitigation scheme.
- 1.5 I have been actively involved as the Project Manager overseeing the Sturry Link Road since 2015 and have been involved with many of the discussions with the developers relating to the funding of the Sturry Link Road and securing the developer contributions through s106 Agreements.
- 1.6 I have previously provided evidence as an expert witness for a Public Inquiry for the CPO of the Edenbridge Western Relief Road.

- 1.7 My evidence will refer to documents associated with the published Statement of Case (Doc 1.6) but, for ease of reference, key documents together with other relevant documents are included as Appendices.
- 1.8 I am aware that, regardless of my employment by KCC and my involvement in the Sturry Link Road, I am giving evidence to the Inquiry as an expert witness and that my duty is to the Inquiry. I provide in my evidence my true, complete and honestly held professional view.

2.0 Scope of evidence

- 2.1 My evidence provides an overview of the Council's case and compliance with relevant paragraphs of the MHCLG Guidance on the Compulsory Purchase Process and the Crichel Down Rules (the 'CPO Guidance'). The evidence is structured as set out in the contents.
- 2.2 The Council produced a detailed Statement of Case (Doc 1.6), which should be read alongside this proof of evidence. I do not include in my evidence every matter covered in that document. Instead, I focus upon the justification for the confirmation of the Compulsory Purchase Order (CPO) and the aspects of the CPO Guidance that the decision-maker will need to take into account when making the decision as to whether or not to confirm the CPO.

3.0 The Scheme and the Order Land

- 3.1 The proposed Sturry Relief Road consists of a new 1.5 km single carriageway road located, in part, to the north of the Canterbury to Ramsgate railway line in an east-west direction to join the A291 Sturry Hill in the east, and in a north-south direction over the railway and across the flood plain of the River Great Stour (the Great Stour) to join the A28 in the south. The east-west section of the Relief Road will be provided by the developer of the Land at Sturry development, which is an allocated development in the Canterbury City Council's District Local Plan (adopted 2017) (Doc 7.5).
- 3.2 The Council is taking responsibility for the delivery of the section of the Relief Road between the A28 Sturry Road in the south and the crossing of the railway line, as well as the approach to the proposed roundabout (that itself will be constructed as part of the east-west link within the Land at Sturry development in the north). The Council is also taking responsibility for a local improvement of Shalloak Road adjacent to the Broad Oak level crossing. Both of these elements of the overall scheme are the subject of this Order (Doc 1.1) and are referred to as the A28 Sturry Link Road.
- 3.3 As an integral part of the Scheme, the Council will also be carrying out an improvement of the A28/A291 Island Road junction, within the existing highway boundaries, to reflect the changed distribution of traffic, and to

encourage use of the Relief Road, and deter traffic from using the existing level crossing. These works will take place after the full Relief Road has been opened and traffic flows monitored over a period to confirm that the proposed junction scheme will achieve the required objectives. These improvements will be carried out within the existing highway boundary, therefore no land is required to be included within this CPO.

- 3.4 A planning application under regulation 3 of the Town and Country Planning Act General Regulations 1992 was submitted to the Council's Planning Applications Group and the Link Road received planning permission on 7 September 2021.
- 3.5 The CPO Guidance at Tier 1, paragraph 13 requires the acquiring authority to have a clear idea of how it intends to use the land that it is proposing to acquire. I consider that the Council does have a clear idea of what it will do with the Order Land.

The Order Land in the Order as made comprises the following:

Plot 1 – acquisition of wooded shrub strip adjacent to A28 Sturry Road in unknown ownership required for construction of the roundabout.

Plot 2 – acquisition of A28 Sturry Road public highway required for construction of the roundabout.

Plot 3 – acquisition of ditch and wooded shrub strip known as Sturry Dyke adjacent to A28 Sturry Road required for construction of the roundabout.

Plot 4 – acquisition of half width of ditch known as Sturry Dyke and wooded strip across the frontage of Perryfield Farm required for construction of a drainage outfall.

Plot 5 – rights over field and wooded area for construction of site offices and storage of materials and working space.

Plot 6 – rights over field and wooded area for working space and permanent rights of access to maintain and inspect the viaduct.

Plot 7 – acquisition of field and wooded area for construction of the roundabout and approach road to the viaduct including embankment and surface water drainage lagoon.

Plot 8 – rights over land at the Wastewater Treatment Works for construction of the viaduct.

Plot 9 - rights over land at the Water Treatment Works for construction of the viaduct and permanent rights of access to maintain and inspect the viaduct.

Plot 10 – acquisition of land from Wastewater Treatment Works for construction of approach road embankment, and viaduct.

Plot 11 – acquisition of amenity land from rear land holding of Perryfield Farm for construction of the approach road to the viaduct, and for the viaduct.

Plot 12 – rights over amenity land at rear land holding of Perryfield Farm for construction of the viaduct.

Plot 13 – rights over half width of southern arm of River Great Stour adjacent to the Wastewater Treatment works for construction of the viaduct.

Plot 14 – acquisition of half width of southern arm of River Great Stour adjacent to amenity land at rear land holding of Perryfield Farm for construction of the viaduct.

Plot 15 – rights of access over half width of southern arm of River Great Stour adjacent to amenity land at rear land holding of Perryfield Farm for construction of the viaduct.

Plot 16 – rights over shrub land between both arms of the River Great Stour for construction of the viaduct.

Plot 17 – rights over bank and half width of northern arm of River Great Stour for construction of the viaduct.

Plot 18 - rights over shrub land, bank, and northern arm of River Great Stour for construction of the viaduct.

Plot 19 - rights over field and shrub land adjacent to the northern arm of River Great Stour for construction of the viaduct.

Plot 20 – rights over Ashford to Ramsgate railway line for construction of viaduct.

Plot 21 – acquisition of air rights over Ashford to Ramsgate railway line for construction of viaduct and rights to maintain and inspect the viaduct.

Plot 22 – rights over Ashford to Ramsgate railway line for construction of viaduct.

Plot 23 – rights over field for working space and permanent rights of access to maintain and inspect the viaduct.

Plot 24 – permanent right of access over shrub land adjacent to Shalloak Road for construction of road widening.

Plot 25 – acquisition of shrub land adjacent to Shalloak Road required for widening the road.

Plot 26 - acquisition of Shalloak Road public highway and verge required for widening the road.

Plot 27 – acquisition of Shalloak Road public highway and verge required for widening the road.

Plot 28 - acquisition of Shalloak Road public highway and verge required for widening the road.

Plot 29 – acquisition of public highway and paved entrance to Depot required for widening of Shalloak Road and improved entrance to the Depot.

Plot 30 - acquisition of paved entrance to Depot required for widening of Shalloak Road.

Plot 31 - acquisition of scrub land adjacent to site of derelict house required for widening of Shalloak Road.

Plot 32 – acquisition of wooded area and site of derelict house required for demolition of the house and widening of Shalloak Road.

Plot 33 – rights over wooded area and site of derelict house required for demolition of the derelict house, and for construction of the widening of Shalloak Road.

Plot 34 - acquisition of paved entrance to Depot required for widening of Shalloak Road.

- 3.6 The Land at Sturry development (Canterbury City Council planning reference CA/20/02826) will be responsible for the delivery of those elements of the Relief Road within its proposed development site. The parts of the Relief Road to be delivered by the Land at Sturry development are shown in the development master plan (Doc 9.2) The Council will co-ordinate its construction programme with that of the Land at Sturry development so that the length of the Relief Road between the A28 Sturry Road and A291 Sturry Hill will become available in a comparable time period.
- 3.7 The east- west link between Shalloak Road and A291 Sturry Hill received planning permission as part of the Land at Sturry development on 8 March 2021. The planning permission gave detailed consent for the road and outline consent for the development.
- 3.8 For ease of reference and to remain consistent with the terms used in the Statement of Case (Doc 1.6), in this proof of evidence, “Relief Road” refers to

the full scheme between the A28 Sturry Road and A291 Sturry Hill. “Link Road” refers to the southern section of the Relief Road between the A28 Sturry Road and over the River Great Stour and the Ashford to Ramsgate railway (sometimes referred to in documents as the Canterbury to Ramsgate railway) line into the Land at Sturry development site (planning reference CA/20/02826) and is the subject of the Order. As I have already explained, the Order also includes land for the local widening of Shalloak Road on the north east side of the Broad Oak railway level crossing to improve safety.

4.0 Justification for the CPO

- 4.1 The principal statutory power under which the CPO is made is section 239 of the Highways Act 1980. It states at s. 239(3) that a highway authority may acquire land *“required for the improvement of a highway, being an improvement which they are authorised to carry out in relation to the highway”*.
- 4.2 In this section of my evidence, I provide a summary, which in part refers to and relies on the evidence of Mr East, (Doc 1.11) as to how the acquisition of the Order Land will improve the highway and the reasons why such an improvement is required. I also explain why a CPO is required in order to deliver the Link Road.
- 4.3 The existing A28 through the village of Sturry suffers from congestion due to the high volumes of traffic and the operation of the level crossing. Mr East’s evidence refers to the transport assessment and traffic modelling supporting the need for a relief road.
- 4.4 The Sturry Relief Road provides an alternative route away from the level crossing with a new road viaduct over the railway line and Great Stour as well as other associated improvements to the A28 corridor.
- 4.5 The A28 Sturry Relief Road is identified in Canterbury City Council’s (CCC) District Local Plan (adopted 2017) (Doc 7.5) as a key piece of strategic infrastructure required to support development within the Plan area with new home allocations of around 16,000 as well as to relieve existing congestion.
- 4.6 The Council explained the alternative options assessed in the Statement of Case (Doc 1.6) at section 6, which I endorse but do not repeat here. There are no alternatives to the Scheme that will deliver the essential infrastructure to relieve congestion on the A28 and delivery of the growth identified in the Local Plan.
- 4.7 The requirement for the Relief Road is established in local planning and transportation policy, which I explain as follows.

Canterbury Local Plan (Doc 7.5)

- 4.8 Policy T14 Sturry Relief Road states that *“The Council will seek to implement a Sturry Relief Road as identified on the Proposals Map. Any development proposals that might prejudice this route will be resisted. Contributions to this relief road will be sought from appropriate developments as set out in Policy SP3.”*
- 4.9 Policy SP3 Strategic Allocation (Site 2) for Land at Sturry/Broad Oak Farm refers to development for 1,000 dwellings, and business floor space to support local needs. Infrastructure requirements are for the *“provision of, or proportionate contribution to a new Sturry Relief Road; reduced use of Sturry Crossing for local traffic and buses only; closure of existing rail foot crossings; provision of a new car park at Sturry Station.”*
- 4.10 Policy SP3 Strategic Site Allocations (Site 8) for Land North of Hersden refers to development of 800 dwellings and 1ha of new business space, and also includes provision of/contribution to the new Sturry Relief Road in its infrastructure requirements.

Draft Local Plan – 2040 (Doc 7.7)

- 4.11 Canterbury City Council are progressing a new Local Plan - ‘Canterbury District Local Plan to 2040’. The Regulation 18 public consultation was completed in June 2024. The City Council are proposing to publish the final draft Local Plan in early 2025.
- 4.12 The draft Local Plan states at paragraph 1.36 that *“The majority of the strategic site allocations identified within the Canterbury District Local Plan (2017) now have planning consent and are under development, and these sites will continue to contribute to the district’s development land supply, predominantly during the early years of this plan.”* At paragraph 1.37 it states that *“Development allocations within this Local Plan are therefore in addition to those sites, and are intended to ensure that there is sufficient land available to meet development needs over the full period of the plan to 2040.”*

Kent and Medway Growth and Infrastructure Framework (Doc 7.3)

- 4.13 This was prepared by the Council and Medway Council in 2015 and updated in 2018 to provide a view of emerging development and infrastructure requirements to support growth across Kent and Medway. The provision of the A28 Sturry Link Road is identified as a scheme required to alleviate existing congestion and facilitate major growth sites.

Kent Local Transport Plan 4 “Delivering Growth without Gridlock” 2016-2031 (Doc 7.4)

- 4.14 This is the County Council's fourth Local Transport Plan. Published in July 2017 it identifies transport priorities for the County, as well as indicating to Government and the South East Local Enterprise Partnership (SELEP) the investment required to support growth. The Kent and Medway Growth and Infrastructure Framework is the evidence base for this Local Transport Plan. The A28 Sturry Link Road (read as Sturry Relief Road) is identified as being a transport priority for Canterbury as a means of delivering resilient transport infrastructure to reduce congestion, improve journey times, and enable economic growth and appropriate development.

Kent Local Transport Plan 5 “Striking the Balance” for the period until 2037 – Consultation Document (Doc 7.9)

- 4.15 'In July 2024, the Council published its draft fifth Local Transport Plan – “Striking the Balance”. This covers the period until 2037 and whilst currently a consultation document, and not yet formally adopted by the Council, the A28 Sturry Relief Road continues to be identified as a transport priority for Canterbury.

Framing Kent's Future: Our Council Strategy 2022-2026 (Doc 7.2)

- 4.16 In 2022, KCC published a new top-level strategy called Framing Kent's Future, covering all of the Council responsibilities. The aim of Framing Kent's Future is to support the Council to respond to the challenges and opportunities that it faces over the four years covered and build a solid foundation for Kent's long-term success.
- 4.17 It sets out the priorities that will be focused on to tackle the challenges and make the most of the opportunities that the county is facing. There are four main priorities:
- Priority 1 Levelling up Kent
 - Priority 2 Infrastructure for communities
 - Priority 3 Environmental step change
 - Priority 4 New models of care and support
- 4.18 Sturry Relief Road most readily identifies against Priority 2, particularly in taking an 'Infrastructure First' approach to new development. The scheme also aligns with the other commitments of Priority 2, including improving digital connectivity and access, supporting our rural areas, ensuring people have access to safe and efficient travel options and that all communities can benefit from a strong social infrastructure. Canterbury is also identified as a Priority 1 area under the Levelling Up Fund Round 2 priority index with a high need for

economic recovery and growth, and improved transport connectivity. The scheme also supports the Framing Kent's Future Priority 1 objective, supporting a resilient economy.

South East Local Enterprise Partnership Growth Deal and Strategic Economic Plan (Doc 8.4)

- 4.19 This was prepared in 2014 and identifies the Sturry Link Road (read as Sturry Relief Road) as a solution for unlocking growth in the Canterbury District.

Canterbury Corporate Plan 2016 – 2020 (Doc 7.12)

- 4.20 This was adopted in 2016 and identifies the Sturry Link Road (read as Sturry Relief Road) as a means of tackling congestion, one of the aims of the Corporate Plan to help deliver economic growth.
- 4.21 The principal benefits of the Relief Road scheme and the improvements to the highway that it will deliver are as follows:
- (i) address existing traffic congestion issues on the A28 corridor, in particular over the Sturry railway level crossing.
 - (ii) facilitate improvements to pedestrian access to and around Sturry Station.
 - (iii) reduce “rat-running” through Broad Oak village, along Sweechgate, and along Shalloak Road.
 - (iv) improve access to and utilisation of the Sturry Park and Ride, which reopened in 2024.
 - (v) enhance non-car access to Canterbury City from the east, including the provision of enhanced pedestrian, cycle, and public transport facilities.
 - (vi) support access to the strategic development site on Land at Sturry.
 - (vii) support delivery of the wider Local Plan, including allocated housing development across the north and east of the district.
- 4.22 With regard to the reason why a CPO is required, the Council appointed property agents Carter Jonas in 2022 to commence negotiations for the voluntary acquisition of the land. Whilst it was hoped that voluntary negotiations would be successful and completed in a timely manner, there are still outstanding interests where agreement has not been reached. Therefore, a CPO is required to secure the delivery of the Scheme and provide programme certainty.

- 4.23 The Link Road is required at the earliest opportunity to mitigate existing traffic congestion as part of the Relief Road and to cater for additional traffic arising from already consented development. The Council anticipates commencing development in spring 2026. This is due to the following factors:
- (i) The Council will need time following the confirmation of a CPO to implement the Order and acquire the remaining land interests before development can commence;
 - (ii) The Council has awarded a Design and Build contract and the detailed design of the Link Road is progressing with the next step being to prepare the details for submission to discharge pre-commencement planning conditions. The Council is making a non-material amendment application to the planning consent. The non material amendment is required to ensure that the detailed design complies with the planning condition 16 (Doc 11.2) so that the piers and abutments are set back at least 8m from the riverbank and also to improve the clearance to the railway. This will be achieved by increasing the spans between the supporting piers and removing one of the piers from the consented design. As well as complying with the planning condition, the proposal would also have some additional environmental benefits by reducing footprint within the floodplain and taking construction works further away from the sensitive riverbanks and potential beaver and water voles borrows and otter holts. Network Rail, Natural England and the Environment Agency have been consulted on and accepted the changes.
 - (iii) Sufficient time is required enter into the bridge agreement and to secure railway possessions with Network Rail in discussion with the Train Operating Company (Southeastern) following confirmation of the CPO so that the development can proceed.
- 4.24 The Council's planning consent for the Link Road has a validity period of five years from September 2021.
- 4.25 If all the land cannot be secured, or secured in a timely fashion, then the Scheme cannot be delivered as required. Existing congestion would get worse as the permitted housing is completed, with consequential impacts for Sturry, Canterbury and East Kent residents and businesses. Journeys for work, school, shopping and leisure would be disrupted with consequential impacts on people's lives and the local economy.
- 4.26 I believe that there is a clear and compelling case in the public interest to confirm the CPO for the scheme. It is necessary for the land and rights included in the Order to be acquired. The public benefit of the scheme will

outweigh the private loss to landowners. Further, this private loss has been reduced so far as practicably possible and measures have been included to mitigate the impact of the Scheme.

5.0 The Link Road and Land at Sturry Planning Consents

Link Road – CA/21/01854 (KCC planning reference: KCC/CA/0136/2021)

- 5.1 The A28 Link Road scheme was submitted as a planning application to the County Council's Planning Applications Group in April 2019. The application was supported by an Environmental Statement.
- 5.2 The application was initially refused by the Planning Committee in March 2021 because they considered that the proposals did not make adequate provision for public transport infrastructure, failed to demonstrate that navigation on the River Great Stour would not be compromised, and that the proposals for the A28/A291 junction did not make adequate provision for local traffic movements.
- 5.3 A revised application together with an updated Environmental Statement was submitted in June 2021. This demonstrated that the public transport aspects complied with planning policy and was acceptable to bus operators, and that the River Great Stour was not navigable for commercial or recreational boats at the crossing point because of more severe headroom restrictions at Vauxhall Road Bridge and Blackmill Bridge either side. A revised proposal for the A28/A291 junction was included that catered for all local traffic movements.
- 5.4 The new planning application was considered by the County Council's Planning Applications Committee on 2 September 2021 who resolved to grant planning permission.
- 5.5 Detailed planning permission was formally issued on 9 September 2021 (Doc 11.2). The planning permission includes several conditions, typical of similar highway schemes, several of which need to be satisfied before construction can commence for example in respect of archaeological (condition 25) and ecological matters (condition 5). Although none of the condition have been discharged the Council is actively progressing the surveys and detailed designs and supporting information required in order to discharge the conditions, and I do not consider the conditions to represent an impediment to the delivery of the Link Road.

Land at Sturry – CCC planning reference CA/20/02826

- 5.6 The Land at Sturry site is approximately 54.43 hectares and is located to the north of the Ashford to Ramsgate railway line between the villages of Broad Oak and Sturry. The Land at Sturry Site forms the southern part of Strategic Site Allocation Site 2 Land at Sturry/Broad Oak within Policy SP3 of the Canterbury District Local Plan (Doc 7.5).
- 5.7 Planning permission was granted on 8th March 2021 for the following development. *“Outline application (with all matters reserved) for the development of up to 630 houses and associated community infrastructure comprising primary school, community building, public car park and associated amenity space, access, parking and landscaping; and detailed/full application for the construction of part of the Sturry Link Road (read Relief Road) and a local road from the Sturry Link Road (read Relief Road) to Shalloak Road.”*
- 5.8 Reserved matters applications reference CA/24/00235 for the approval of landscaping, layout, and appearance for part of the open space on the development was granted on 9 April 2024.
- 5.9 Reserved matters application reference CA/24/00400 submitting details pursuant to condition 12 (phasing plan) of planning permission was approved 3 May 2024.
- 5.10 A nutrient neutrality mitigation strategy has been submitted in accordance with the following planning conditions, 4 - surface water drainage, and 27, 28, 29, 30 and 31 - foul drainage. This has been accepted as part of the Habitats Regulation Assessment (HRA) and an Appropriate Assessment (AA) Statement has been accepted by the local planning authority. The next steps are for the promoters of the Land of Sturry site to submit a non-material amendment application to make minor amendments to the approved parameter plans to match the accepted mitigation providing wetland and wastewater treatment works for the site.
- 5.11 Work is currently being progressed to inform the remaining reserved matters applications due to be approved by March 2025 prior to construction work commencing.
- 5.12 The Land at Sturry Section 106 agreement (Doc 9.3) was completed on 8 March 2021.
- 5.13 The s106 commitments is for a contribution of £27,500 per unit to the delivery of the Link Road for the first 320 units totalling £8.8m.

- 5.14 Other land from the development required for the delivery of the Link Road is provided through the s106 agreement.
- 5.15 There is a commitment within the s106 agreement, schedule 11, part 5 section 1 to deliver the Relief Road from the viaduct to the A291 by the completion of the 161st unit.
- 5.16 The Relief Road between the viaduct and Shalloak Road is being delivered by the developer of the Sturry Site and is required to be provided before the completion of the 385th unit (schedule 11, part 5 section 2 of the s. 106).
- 5.17 Environ Design the promoter of the Land at Sturry site have provided a letter of support and an update on the status of the development, see Appendix A.
- 5.18 Hyde Housing as an interested developer has also provided a letter of support and confirmed that they are discussing terms with the landowners for the acquisition of the site, see Appendix B.

6.0 Funding and Delivery

- 6.1 Tier 1, paragraph 14 of the CPO Guidance states that the acquiring authority should address both sources of funding and timing of funding when justifying the CPO.
- 6.2 With regard to sources of funding, the CPO Guidance states that substantive information should be provided as to the sources of funding for both acquiring the land and implementing the scheme, and that an indication of how any funding shortfalls are to be met.
- 6.3 In respect of timing of funding, it should be available now or early in the process or failing that so that the compulsory acquisition can be completed within the statutory period from the operative date.
- 6.4 Tier 1, paragraph 13 states that unless an acquiring authority is able to show that necessary resources are likely to be available within a reasonable timescale, it will be difficult to show that compulsory acquisition is justified in the public interest.
- 6.5 The scheme was originally costed as part of the Transport Scheme Business case that was submitted and approved by the South East Local Enterprise Partnership (SELEP) and HM Government in 2016 .
- 6.6 The Council estimates that the delivery of the Link Road and associated elements of the scheme (including land acquisition) that it is responsible for will cost £41.6m. The scheme cost estimate was last reported to the KCC Environment and Transport Cabinet Committee in July 2023 (Doc 12.7) and

was presented at £41.6m based on a start of construction in April 2025. Although a start in April 2026 is now anticipated, I consider that any inflation cost increase on the budget would be offset by the increased funding provided by the indexation on the s106 developer contributions which are yet to come forward.

- 6.7 KCC commissioned Amey to prepare the Transport Scheme Business Case (Doc 8.1), which was a requirement for each of the projects that have been allocated Local Growth Fund (LGF) finance by the SELEP. The overall purpose of the business case was to provide a 'proportionate' justification for the LGF funding allocated to the Sturry Link Road (£5.9 million) and for this to be independently reviewed by technical evaluators (Steer Davis Gleave).
- 6.8 The scope of the business case was aligned with the LEP Assurance Framework and considers the five key strands of content required by Department for Transport (DfT) and HM Treasury's The Green Book, namely the strategic, economic, financial, commercial and management cases. It also brings in other strands such as a summary of predicted scheme costs as well as the scheme outcomes and benefits. In acquiring land to deliver the Link Road, KCC will be able to deliver the outcomes and benefits set out in the business case including achieving value for money with regards to the public funds achieved.
- 6.9 The scheme cost estimates and spend profiling that were originally presented in the Transport Business Case (Doc 8.1) have been regularly reviewed and updated. The scheme estimate includes every element of cost such as design, construction, professional fees, land acquisition costs, utility diversions and third party costs such as those related to Network Rail. The estimate also includes an assessment of risk.
- 6.10 The estimate was prepared by a firm of independent cost consultants, Allen Dadswell Construction Consultants. They have provided estimates for previous major schemes for the County Council including the subsequent construction contract commercial aspects and have a proven record of competency. This gives me confidence in the estimate.
- 6.11 In accordance with public sector procurement regulations, tenders were invited for a Design and Build contract in March 2022 with final tender prices received in December 2022. Notification of intent to award a contract to the preferred bidder was issued on 13 July 2023. The Design and Build Contract, using the NEC option C form of Contract, was awarded to Volker Fitzpatrick in February 2024. The tender from the preferred bidder, which includes the target price for both the design and construction elements, has been used to inform the scheme budget.

- 6.12 The first stage of the contract is for the contractor to develop the detailed design of the Link Road within the design, planning consent and land parameters using his expertise to optimise the design, buildability and its cost. The designers are progressing well with confirming their design, plan and specification prior to issue for technical approval and acceptance. The design phase is due to be completed early in 2025. When this has been successfully completed and subject to the land having been secured through confirmation of the Order, the Council will be able to commit to the construction phase of the contract .
- 6.13 During construction an experienced NEC4 project manager and supervisor would be employed to manage the contract and monitor the works.
- 6.14 The delivery of the Link Road will largely involve greenfield land and I consider that it is less vulnerable to external influences such as statutory undertakers' diversion and traffic management restrictions that can affect programme and costs.
- 6.15 With regard to how the Council intends to fund the costs, this will be achieved through contributions to be drawn down from both public funds and funding from developer s106 agreements.
- 6.16 In July 2014, the DfT provided approval in principle for £5.9m of LGF through SELEP. This was formally confirmed by the SELEP Accountability Board at its meeting on 24 June 2016 (Doc 8.3) following submission of the full Business Case (Doc 8.1).
- 6.17 The conditions of this grant from SELEP require the Council's S151 officer to provide assurance that the scheme is deliverable and there is funding in place for delivery. A letter from the Council to SELEP confirming the funding position is included in Appendix C.
- 6.18 The LGF grant has been transferred in full to the Council for spend on the project. With the impending disbanding of SELEP, the Council will report directly to the Ministry of Housing, Communities and Local Government bi-annually on progress with the delivery of the project and spend of the remaining grant.
- 6.19 As part of the ongoing monitoring and evaluation of project and the spend of the LGF grant, the allocation and phasing of this funding towards the Relief Road continues to be reported to HM Government and was most recently confirmed by the South East Local Enterprise Partnership Accountability Board at its meeting on 22 September 2023 (Doc 8.5 and Doc 8.6) .
- 6.20 The milestones that this funding is presently focussed on are the completion of the land acquisition and commencement of construction works in April

2025, with completion in December 2026. As I have already explained, the Council now anticipates that construction will commence in Spring 2026. However, I do not consider that this presents an issue in respect of the SELEP funding. A significant proportion of the grant has already been spent in the planning and development of the Scheme. The award of the Design and Build contract, completion of the design and certainty of the land being available through the CPO demonstrates the continued progress of the Scheme, and will give greater certainty on the programme and that it remains deliverable. I am confident that the milestones will be extended and the LGF will remain available based on a programme of delivery by Spring 2026.

- 6.21 The remainder of the funding is to be provided by the Land at Sturry, Land at Broad Oak Farm, Hoplands Farm, Chislet Colliery, Land to the North of Hersden, Land North of Popes Lane, and Herne Bay Golf Club developers under Section 106 planning obligations.
- 6.22 See Appendix D for a plan showing the location of the Sturry link road and respective developments.
- 6.23 A summary of the s106 developer contributions and status of the developments is provided below:

Land at Sturry – CCC planning reference CA/20/02826

- 6.24 Details of the status of the Land at Sturry Site are covered in paragraphs 5.6 to 5.18.
- 6.25 The Land at Sturry Section 106 agreement (Doc9.3) was completed on 8th March 2021 and provides for an index linked contribution of £8.8m. The contribution is based on £27,500 per unit for the first 320 units and is paid quarterly on the number of completions of houses during the period.
- 6.26 The development has not yet started, although it is understood from the promoter and potential developer of the site that they are looking to progress the site later in 2025 (see Appendices A and B).

Land at Broad Oak Farm – CCC planning reference CA/18/00868

- 6.27 The Land at Broad Oak Farm is approximately 18.95 hectares and is located adjacent to and north of the Land at Sturry site between the villages of Broad Oak and Sturry. It forms the northern part of Strategic Site Allocation Site 2 Land at Sturry/Broad Oak within Policy SP3 of the Canterbury District Local Plan (Doc 7.5).
- 6.28 Planning permission was granted on 8th March 2021.

- 6.29 The Land at Broad Oak Farm s106 agreement (Doc 9.4) was completed on 1st March 2021 and also provides for an index linked contribution of £8.8m. The contribution is based on £27,500 per unit for the first 320 units.
- 6.30 The site is currently being built out by Barrett David Wilson Homes (BDW).
- 6.31 As of June 2024, a sum of £3,249,682, has been collected, based on 95 legal completions.

Hoplands Farm – CCC planning reference CA/16/00404

- 6.32 The Hoplands Farm site is approximately 28.7 hectares and is located south of A28 Island Road at Hersden Village which is to the east side of Sturry village.
- 6.33 Planning permission was granted on 5th July 2017 for the following development: *“Outline planning application for a neighbourhood extension for the creation of up to 250 houses including affordable housing, neighbourhood centre (comprising Class A1 foodstore (400sq.m), Class D1 medical centre (380sq.m), Class D1 dentist (150sq.m), Class A1 pharmacy (150sq.m), Class D1 nursery (120sq.m) and Class A1 convenience retail (360sq.m)), commercial estate (comprising Class B1 business floorspace (up to 5572sq.m), Class D1 apprenticeship centre (616sq.m) and Class D1/D2 community building (up to 672sq.m)), parish parkland and associated access, parking, amenity space and landscaping.”*
- 6.34 Hoplands Farm’s s106 agreement (Doc 9.5) was completed on 5th July 2017 and provides for a contribution of £1.2m for use as forward funding for the design and planning of the Sturry link Road. This sum has been received and has forward funded the preparation of the design and planning. Once all other funding has been received this sum will re-allocated to other local highway improvements, although there may be an opportunity, to retain this contribution to fund any cost overruns on the Sturry Link Road if necessary.

Former Chislet Colliery – CCC planning reference: CA/16/00673

- 6.35 The former Chislet Colliery site is approximately 19 hectares and is located south of A28 Island Road at Hersden Village and east of the Hopland Farm site.
- 6.36 Planning permission was granted on 5th July 2017 for the following development: *“Outline planning application (all matters reserved) for a mixed-use development of up to 370 dwellings, local centre, open space, community ecological park, hard and soft landscaping and associated infrastructure with access from a new roundabout on Island Road.”*

- 6.37 The Chislet Colliery s106 agreement (Doc 9.7) was completed on 21st November 2018 and provides for an index linked contribution of £3.6m to local highway improvements, including the Sturry Link Road. £2.4m has been allocated towards funding of the Sturry Link Road with £1.2m retained for other local Highway Improvements.
- 6.38 The Reserved Matters Application for Phase 1 (CA/21/02797) was approved in October 2022.
- 6.39 A further Reserved Matters Application CA/23/02123 was submitted on 8th November 2023 with the latest amended documentation being issued on the 6th August 2024 following consultation comments. The reserved matters application is yet to be determined.
- 6.40 Build out of the development has not yet commenced.
- 6.41 The payments are due to be made in three £1.2m instalments on the first, second and third anniversary of the commencement of the development.

Land North of Hersden – CCC planning reference CA/22/01845

- 6.42 The Land North of Hersden site (Doc 9.8) is approximately 61.93 hectares and is located north of A28 Island Road on the northern edge of the village of Hersden and generally opposite the Hoplands Farm and Chislet Colliery sites. It forms Strategic Site Allocation Site 8 Land North of Hersden within Policy SP3 of the Canterbury District Local Plan (Doc 7.5).
- 6.43 Planning permission is being sought for the following development: *“Hybrid planning application comprising: Full planning application for development of 261 residential dwellings (including affordable housing); with vehicular, pedestrian and cycle access from A28 Island Road; open space; landscaping; internal roads and car parking; sustainable drainage system together with associated earthworks and infrastructure. Outline application (with all matters reserved) for up to 539 dwellings (including affordable housing); 1 ha of land for employment floor space (accommodating the following uses, a café, use class E-b; office floorspace, use class E-g; light industrial, use class E-g); 0.8 ha of primary school extension land; new community building (use class F2); new sports pavilion (use class F2); open space, including equipped play, playing pitches and landscaping; mobility hubs; sustainable drainage system; landscape bund together with associated earthworks and infrastructure.”*
- 6.44 The report to the planning committee was published on the planning portal on the 12th August 2024 recommended approval of the application and confirms that the developer has agreed to provide a contribution of £5.85m towards the Sturry Link Road, index linked from 2016.

- 6.45 The planning committee resolved to approve the application on 20th August 2024, subject to the s106 being completed. It was a hybrid planning permission so 261 dwellings will have full planning permission and the remaining 539 are outline with reserved matters to follow.
- 6.46 The report also confirms that the developer would pay £0.5m towards the contributions allocated to the Land at Sturry Site.

The Herne Bay Golf Club – CCC planning reference CA/15/00844

- 6.47 The Herne Bay Golf Club site is approximately 40 hectares and is located between the A2990 Old Thanet Way and A299 Thanet Way at the northern end of the A291 and forms Strategic Site Allocation Site 4 Herne Bay Golf Course within Policy SP3 of the Canterbury District Local Plan (Doc 7.5).
- 6.48 Planning permission was granted on 24th September 2015 for the following development: *“Hybrid application for the redevelopment of the former Herne Bay Golf Course. The s106 agreement was also completed on 24th September 2015 and included an index linked contribution of £0.25m towards the design and preparation of the planning application of the Sturry Link Road. This contribution has been paid.*
- 6.49 Construction commenced in 2017, with 571 legal completions by October 2023.

Land North of Popes Lane, Sturry – CCC planning reference CA/23/01743

- 6.50 The Land North of Popes Lane Site is approximately 9.31 hectares and is located on the northern edge of Sturry and to the east of the A291.
- 6.51 Planning permission is being sought for the *“Outline application for up to 120 residential dwellings (including affordable housing) with all matters reserved except for access. The development includes; new access arrangements from Popes Lane, a waste water treatment works, play provision including a local play area, a picnic area with green space and footpaths, natural and semi natural open space with wildflower meadow, 0.1ha of allotments, landscape planting including retention and positive management of key features and sustainable drainage systems”.*
- 6.52 The application site (Doc 9.10) is allocated in the emerging Draft Local Plan for Canterbury City Council (policy R18) (Doc 7.7). Since a previous application for this site (CA/18/01305 - which was refused on appeal by the Planning Inspectorate), the Sturry Relief Road (read as Sturry Link Road) has received planning approval.

- 6.53 However it should be noted Policy R18 relating to Land north of Popes Lane states " *The Sturry Relief Road must be fully operational prior to the occupation of any dwellings on this site*".
- 6.54 In representations to the planning authority dated 9 November 2023 (Doc 9.9) the Council as the highway authority requested a Sturry Link Road contribution. *"The development is required to contribute £3,195,749 towards the Sturry Link Road as this development is reliant on the Sturry Relief Road coming forward. This contribution is required prior to the commencement of development on site. This is based on the contribution secured from the neighbouring Broad Oak Farm site with an appropriate indexation amount based on the building cost index."* The value of the contribution is subject to negotiation and will be confirmed through the s106 agreement.
- 6.55 Should planning consent be granted, a contribution of £2.6m is being requested, and this will be confirmed in the s106 agreement.

Indexation on S106 contributions

- 6.56 All of the s106 contributions are index linked from the date specified in the respective s106 agreements. The risk of increases in the budget estimate due to delay are generally offset by the increase in the developer contribution due to the indexation. The calculation for the £7.0m of indexation funding in the table below is based on the methodology identified in the respective s106 agreements assessed as at July 2023. It is based on the difference in the 'The Building Cost Information Service (BCIS) General Civil Engineering Cost Index' between the base date, generally the date of signing the s106 agreement and the date that the instalment is paid by the developer. It has been based on predicted rates of housing completions of the developments and assessed at the same time as the project estimate was prepared. Given that the £7.0m figure was assessed as at July 2023 and some of these developments have outstanding contributions to make and are subject to delay, it is anticipated that the funding available for the Link Road from indexation will increase.
- 6.57 As at June 2024, £10.6m of funding had been received by the Council with the remainder due in accordance with the various s106 agreements.

Funding Source	Amount	Received to Date	Planning Status
LGF	£5.9m	£5.9m	N/A
S106 – Herne Bay Golf Course	£0.25m	£0.25m	Development under construction

S106 - Hoplands	£0.00	£1.2m	Development under construction. Forward funding for Link Road, due to be returned to the wider area Highway Improvements pot.
S106 – Broad Oak	£8.8m	£3.25m	Development under construction
S106 - Sturry	£8.8m		Planning consent granted awaiting developer to commence construction
S106 - North Hersden	£5.85m		Resolution to grant planning consent
S106 – Colliery Site, Hersden	£2.4m		Site with planning consent and S106 signed for forward funding for £3.6m Highway Works. (£1.2m retained for other Highway improvements along the A28 corridor)
S106 - Land North of Popes Lane, Sturry	£2.6m		Site with Planning application submitted.
Indexation uplift on s106 contributions, assessed at July 2023	£7.0m		Based on forecast of the s106 developer contributions from the Broadoak, Sturry and North Hersden sites. Indexation is available from the Colliery Site Hersden and Land North of Popes Lane.
Total	£41.6m	£10.6m	

Table 1 – Summary of funding sources

- 6.58 The project line for the Relief Road within the current KCC 24/25 budget illustrates the likely anticipated spend by year, based on the current delivery programme and timing of the funding contributions. As with any major project, there is likely to be a requirement for forward funding by KCC to enable the construction of the relief road in the timescales required, whilst the additional developer contributions are banked. KCC has already made allowance for this requirement within its capital programme, whilst discussions continue with the developers on their timescales for build out and payment of their contributions.
- 6.59 Table 2 shows the total estimated forward funding requirement per year. The amount required will reduce as developer contributions are collected.

Financial Year	Borrowing requirement in year (estimate)
2026/2027	£7.0m
2027/2028	£5.0m
2028/2029	£3.0m

Table 2 – Potential forward funding requirement

- 6.60 A value engineering and risk management review will be undertaken during the detailed design phase, to ensure that the project costs remain within budget and avoid the need to seek additional funding.
- 6.61 If it emerges that there is a funding shortfall in the years ahead, additional developer contributions from developments identified in the emerging Local Plan and other grant funding streams will be pursued, if necessary, to meet the overall cost of delivering the construction of the Link Road.
- 6.62 The new Government has a policy objective of achieving 1.5 million new homes over the next five years. This will require blockers to new development to be removed so that new housing and the critical infrastructure that supports its delivery can be provided. The Council will continue to work with Canterbury City Council and relevant Government departments to ensure that the full Relief Road is achieved. This is because this infrastructure will play a critical part in supporting the delivery of circa 1,600 new houses on the strategic sites in the Local Plan.
- 6.63 With regard to the CPO Guidance, I consider that the Council is able to show that the necessary resources will be available within a reasonable timescale. With regard to the timing of funding, not all of the external funding for the scheme is available now, as explained above, but the Council intends to forward fund the scheme whilst further s106 contributions are awaited in order to ensure that the scheme can proceed without delay. This has been allowed for in the Council's budget.

7.0 Impediments

- 7.1 Tier 1, paragraph 15 of the CPO Guidance requires acquiring authorities to show that the scheme is unlikely to be blocked by any physical or legal impediment, including the programming of any infrastructure accommodation works or remedial work and the need for planning permission or any other consent or licence.
- 7.2 As I have already explained, the Link Road has detailed planning consent and discharge of the normal pre-commencement planning conditions are being progressed. The Link Road planning consent is valid until September 2026.

The detailed design of the scheme by the appointed Design and Build contractor will be completed by Spring 2025. As I have already explained, the Council anticipates starting construction of the Link Road in Spring 2026, well before the planning consent would expire.

- 7.3 The Land at Sturry development also has planning consent, including for the Relief Road. That consent has not yet been implemented. Although consent was granted in 2021, progress was delayed because of the emerging guidance from Natural England on Nutrient Neutrality which then evolved a number of times because of adjusting guidance. An acceptable nutrient solution has been identified and in February 2024 Canterbury City Council adopted a new Appropriate Assessment for the Sturry site that was approved through consultation with Natural England.
- 7.4 The first reserved matters planning condition has also been approved and that extends the validity of the planning consent by two years, until February 2026. It is also understood that the promoter has started negotiations on commercial terms with a number of house builders who want to implement the consented scheme. This is referenced in the letters of support from the site promoter, Environ Design (Sturry) Limited, and the potential developer, The Hyde Group, in Appendices A and B.
- 7.5 The promoter still has further reserved matters applications to submit for approval and Environmental Licences to secure. The Council understands that the earliest anticipated implementation date is late 2025 or early 2026. This is in advance of the date when the Council anticipates that it will be able to start construction of the Link Road.
- 7.6 There is an interaction and interdependence between the Link Road and the Land at Sturry development. The Council judges that it is appropriate and necessary to seek a CPO now in order to ensure that the commencement of construction of the Link Road can align with the start of the Land at Sturry development and construction of the Relief Road. Waiting until the Land at Sturry development has, for example, been implemented in order to pursue a CPO would run the risk of a delay to the delivery of the full Relief Road and thereby the delivery of much needed housing that requires this road. It will take some time for the CPO process to come to a close and for the Council to have access to the land following the confirmation of a CPO due to the statutory challenge period and the minimum of three months of General Vesting Declaration period.
- 7.7 There are various approvals and consents that are required in order for the Link Road to be delivered but I do not consider that they are likely to present an impediment to delivery. Progress is being made in respect of them and I do

not consider that they threaten the anticipated start of construction of the Link Road in spring 2026. They comprise:

- (i) Technical and other associated approvals, including track possessions, needing to be finalised with Network Rail in accordance with the Two Party Overbridge Agreement – see paragraph 13.1.4 of Statement of Case – before work could commence on the railway bridge. This is a standard technical approval process and no issues are anticipated.
- (ii) There are several pre-commencement planning conditions typical of a major highway scheme and these are being progressed as discussed in paragraph 5.5. Several protective species licences for water voles, bats, great crested newts and beavers are also required. Likewise, these are all being progressed with additional surveys planned to ensure the information included within the licence applications is current.
- (iii) A NMA will also be required when the contractor has completed the detailed design of the viaduct. It is possible that the number of spans will be reduced from six to five to allow one pier position to be removed. This amendment is required to ensure that the design complies with the planning condition 16 (Doc 11.2) so that the piers and abutments are set back at least 8m from the riverbank and also to improve the clearance to the railway. As well as complying with the planning condition, the proposal would also have some additional environmental benefits by reducing footprint within the floodplain and taking construction works further away from the sensitive riverbanks and potential beaver and water voles borrows and otter holts. Network Rail, Natural England and the Environment Agency have been consulted on and accepted the changes. This mainly affects land secured under the Land at Sturry s106 and beyond land within the Order but does impact the land required from the owners of Perryfield Farm in consideration of the offers under consideration to reduce the acquisition of Plot 11.
- (iv) A demolition consent order will be required for the demolition of the derelict house on Plot 33, and this will be progressed. There are no known impediments to it being issued.
- (v) Permits will also be required from the Environment Agency for works in close proximity to the riverbanks, but these are standard procedure.

7.8 There are currently no physical impediments to the delivery of the Link Road, although ongoing surveys will be undertaken to check for movement of water voles, beaver and otters, especially the creation of new burrows or holts along the line of the Link Road.

- 7.9 Overall, I believe that the delivery of the Link Road is unlikely to be blocked by a legal or physical impediment.

8.0 Efforts to Acquire by Agreement

- 8.1 The CPO Guidance at Tier 1, paragraph 2 requires acquiring authorities to take reasonable steps to acquire land by agreement and at paragraph 17, it states that authorities should make meaningful attempts to negotiate. In this section of my evidence, I explain the Council's approach to seeking to acquire the land required by agreement. I then go on to provide details of the outstanding objections and the steps that the Council has been taking to seek to resolve those objections.
- 8.2 I have explained that land take is required to deliver the Link Road scheme and that the proposed land take has been kept to a minimum.
- 8.3 Land for a significant section of the Link Road viaduct, across both arms of the River Great Stour and land up to the railway and just beyond, has already been secured by the Council from the Land at Sturry developer under a s106 agreement. This includes permanent land take for the viaduct piers and temporary use of land for construction and both temporary and permanent rights of access.
- 8.4 Land owners were approached at the start of the scheme development and on the basis of indicative land needs which have subsequently been firmed up and which are the subject of this Order. They were advised that it was the Council's wish to acquire all land and rights by agreement, but that, because of the number and nature of the land interests involved, it would also be necessary to promote a CPO to ensure that the Council was able to secure title and rights to all the land required for the scheme when they were required. The Council appointed Bruton Knowles initially as its agent, but this changed to Carter Jonas when a new term contract was awarded, to support the voluntary land negotiations.
- 8.5 As a general point, some land is required for temporary working space. Compulsory purchase guidelines in Circular 2/97 suggest that such land should be included within the permanent land take to give protection to landowners. Whilst some of the land may only be required temporarily, the owner is deprived of the use of that land and hence the acquiring authority must be willing to acquire it. Temporary land take has been shown in the Order as the acquisition of permanent rights, but those rights will only be exercised for the duration of the Link Road construction period.
- 8.6 Every effort has been made to try and resolve objections to the Orders and this has been successfully achieved with objections from the Environment

Agency, National Grid and Southern Gas Networks being withdrawn as follows:

- 8.7 The Environment Agency were concerned that the Link Road and its construction would affect flood risk management because of their need for 24/7 access to launch a boat into the River Great Stour from their existing access point. The Council were able to reassure the Environment Agency that their access to the river would not be prejudiced and that while there may be some inconvenience during construction, the Council's contractor would be instructed to maintain 24hr access.
- 8.8 Southern Gas Networks have a gas governor site abutting the A28 Sturry Road to which low and medium pressure mains within the highway are connected and they were concerned about the possible impact of nearby highway construction. The Council agreed to enter into an Asset Protection Agreement to ensure there is adequate protection for their mains and particularly where works are proposed within 15 metres of the gas governor.
- 8.9 National Grid sought assurances that protection for their overhead power cables and deviation tower (pylon) would be maintained in respect of the use and proximity of Plot 23 required as a permanent right of access for temporary construction traffic and for inspection and maintenance of the viaduct. The Council has been able to reassure National Grid that the proposed access track will be at or close to existing ground levels and that in particular that the access track will satisfy their requirements by not being within 15 metres of the pylon and that the surface of the access track will maintain the minimum headroom of 8.1 metres.
- 8.10 UK Power Networks also known as South East Power Networks raised similar concern to National Grid, however they have also requested that the route of the access track be repositioned closer to the railway line. Such an amended route is in principle possible however it would be outside of the CPO redline and the planning consent red line, and a new planning consent may be required in order to facilitate it.
- 8.11 Heads of terms and compensation has also been agreed with one commercial landowner, Valencia, who owns the land (Plots 29,30, 32 and 33) required for the local widening of Broad Oak Road. The matter is now with solicitors to progress the land transfer and temporary working space licence required.
- 8.12 A private landowner (Plots 5 and 7) has land that is identified for employment use in the adopted Local Plan. In addition to the permanent land take (Plot 7) and permanent access rights, the land at Plot 5 is required temporarily during the construction period for a construction site compound and space for cranes to manoeuvre and lift the viaduct beams into position. They have not raised an

objection but are seemingly not interested in negotiating voluntary acquisition pending the outcome of the CPO.

- 8.13 The Council, despite best efforts, has not yet resolved the remaining objections as detailed in the following section 9. Efforts will continue during the lead-in period to the public inquiry.
- 8.14 It remains the intention of the Council to acquire all the land by agreement where possible but the Scheme requires some unregistered land and land within existing public highway, and clear title to that land is needed. The Order is required to deal with these aspects and also to give certainty that all land will be available when required so that the Scheme can be delivered.
- 8.15 With regard to the land from the residential property at Perryfield Farm there has been engagement with the owners since 2017. During that time there have been approximately seven meetings the latest being on 9 August 2024 and approximately twenty letters from the Council to the owners and a similar number of letters from the owners to the Council. There have also been approximately thirty five exchanges of letters and emails between the Council and the owners' previous agent. Although the Council considers some progress has been made and the Council's offer is as stated in the response to the objection below, no aspect has been accepted by the owners and at the time of writing this proof of evidence the objection remains in full. There has been no indication that the owners are willing to discuss voluntary acquisition and to allow discussions about the possible level of compensation.
- 8.16 In December 2023, the owners de instructed their agent. The Council's letter to the owners dated 2 July 2024 see Appendix H suggested a further meeting to see if the objections could be resolved before the public inquiry, and it also invited the owners to consider instructing a new agent, with reasonable fees to be reimbursed by the Council, to see if progress could also be made to agree compensation. A subsequent meeting was held with the owners on 9 August 2024, however there was no obvious movement from them on an agreement that could remove the objection at this time.

9.0 Extant Objections and the Council's Response

Network Rail

Letter dated 14 December 2023 (Doc 1.7)

- 9.1 The Council has been liaising with Network Rail about the scheme since 2016. A Basic Service Agreement was entered into with Network Rail in 2015 with an updated Basic Services Agreement being signed in 30 June 2023 that sets out how both parties will work together.

- 9.2 It is understood that even after engagement with Network Rail during scheme development, Network Rail's standard procedure in response to being served with a CPO is to lodge a holding objection to give them time to carry out internal consultations. In this case the objection is on the grounds that operational land is adversely affected.
- 9.3 It is also understood that time is required by Network Rail to complete a Deed of Undertaking with the Council before the holding objection can be withdrawn. Whilst a template of the Deed of Undertaking has been shared with the Council we are still awaiting issue of a draft document for agreement.
- 9.4 The Council has provided a professional and legal fees undertaking to Network Rail's solicitor.
- 9.5 The Network Rail land affected by the CPO is plots 20, 21 and 22 requiring temporary rights over the railway for the construction of the bridge. The impacts on the operation of the railway occasioned by the CPO is covered in the evidence provide by Mr East (Doc 1.11).
- 9.6 In preparation of the Deed of Undertaking, Network Rail has prepared a plot plan based on their own asset information mapping. This accords with the Order Map but there is a very minor reduction in the indicated combined areas of the temporary construction work Plots 20 and 22 from 1,072 square metres to 1,070 square metres, The Council ask the Secretary of State to confirm the Order, if minded to do so, with the modification of Plot 22 from 552 square metres to 550 square metres, in accordance with the powers available.
- 9.7 Network Rail has not indicated any objection in principle to the scheme, including the new railway bridge.

UK Power Networks (South Eastern Power Networks)

Letter dated 28 December 2023 (Doc1.8)

- 9.8 The objection is complementary to the resolved objection with National Grid (paragraph 8.9 refers) whereby UK Power Networks (South Eastern Power Networks) also seek assurances in respect of the overhead power lines that pass adjacent to and over Plot 23 in the Order. Plot 23 is owned by South East Power Networks and there is a tenant in occupation.
- 9.9 Plot 23 provides for an access route that will provide a temporary route for the construction of the Link Road viaduct and permanent rights of access to allow the occasional inspection and maintenance of the completed viaduct.
- 9.10 In general terms, the access route is at existing ground level and existing clearances to the overhead power lines will be maintained. The access route

will also be temporarily fenced during the construction period and so there is no risk of construction vehicles straying near to the pylon. The temporary route will be reinstated to its existing condition on completion of the construction contract.

- 9.11 South Eastern Power Networks have requested an amendment to the eastern end of the access route so that it more closely follows the field boundary. South East Power Networks were probably unaware that the alignment in the Order had been selected to avoid an area of environmental interest.
- 9.12 However, following the objection, further investigation has identified that an amendment to the route is in principle possible and the acceptability of that is being discussed with the company. Such an amended route would be outside of the CPO redline and the planning consent red line, and a new planning consent may be required in order to facilitate it. So in the absence of formal agreement with South Eastern Power Networks and the necessary consent being in place for the alternative route, the Council considers that Plot 23 as included in the Order is required to ensure the deliverability of the scheme.

[REDACTED] of Perryfield Farm ("the Owners")

Letter dated 14 December 2023 (Doc 1.9)

- 9.13 The Council has been engaged with the Owners of plots 4, 11, 12 14 and 15 since 2017 and believe they have a reasonable understanding of their concerns. Without prejudice to their position, the Owners have indicated a desire to reach agreement, and the Council shares that objective.
- 9.14 The details of the communications with the Owners setting out their concerns and the offers made by the Council were set out in the Statement of Case. An extract of the relevant section of the statement of case is provided as Appendix G to this evidence.
- 9.15 [REDACTED] did not make specific detailed points of objection in their objection letter and they have requested the right to present a more detailed case were the Order to be considered at public inquiry. I rely on and endorse the text of the Statement of Case that respond to the points raised in their objection relating to impact on their human rights, and scheme funding and certainty as well as points relating to failure to follow expected procedures and excessive land take. The Council will respond to any further matters raised by [REDACTED] in their Statement of Case and evidence to the inquiry in due course.
- 9.16 Key concerns expressed by the owners during meetings and by correspondence have been minimising loss of land, security, privacy,

provision of a new private means of access as well as the visual appearance of the Link Road.

- 9.17 Following the Statement of Case, the Council has continued to engage with the Owners, most recently at a meeting on 9th August. The outcome of this meeting is that a further offer is being made by the Council to remove the need to take rights to plot 4 and 14 and consider further amendments to plots 11b, although access will still be required to plot 11b for maintenance and an agreement to provide gates and position of fencing is required.
- 9.18 The Council has sought to ensure that the acquisition of land within the Order is the minimum required to deliver the scheme. It has also chosen to acquire permanent rights where possible rather than acquisition of title and has responded proactively to issues raised by the Owners regarding the extent of land take and acquisition of rights. It has carefully considered whether it is able to deliver the Link Road whilst further minimising impact on the [REDACTED] property, and as a consequence the Council proposes the amendments to the Order as set out in Section 10.
- 9.19 The Council has also made various offers with regard to the new access details, the provision of a ramped pedestrian access and suggested accommodation works including fencing and electric gates, and off site planting.
- 9.20 The Council has agreed to consult the Owners and take their views into account, where possible, before finalising the Link Road landscaping details before submission to the planning authority for discharge of planning condition 30.
- 9.21 It is my view that the Council has taken reasonable steps to acquire the land required for the Scheme by agreement and has made meaningful attempts to negotiate, in accordance with the CPO Guidance. The Council has worked hard to minimise the land take needed, and proposed suitable and reasonable mitigations to overcome any remaining objections. Unfortunately, this has not thus far resolved the [REDACTED] objection and therefore the CPO is necessary.

10.0 Proposed modifications to the Order

- 10.1 In the response to [REDACTED] objection, see paragraphs 9.13 to 9.21, the Council indicated its willingness to recommend, subject to the Inspector's recommendations, to the Secretary of State, if he/she was minded to confirm the Order, that some acquisition plots be amended and changed to the acquisition of permanent rights.

10.2 The extent of the CPO land requirement remains unchanged and there would be a lessening of the interest to be acquired.

10.3 The draft revised CPO Map is Plan Ref. SLR-CPO-Map-Modified-Submission Revision 16 and is included in Appendix E. The draft revised Schedule is included in Appendix F. The proposed modifications are as follows:

- Plot 4 – Redesignate as permanent rights plot, although there is an offer to remove entirely subject to agreement with the landowner.
- Plot 11 – reduction of the extent of the acquisition of title under the viaduct and a slight reduction in acquisition of title along the side boundary so that it would allow a smooth fence line along the side boundary.
- Plot 11a – a new plot for the acquisition of permanent rights to match the reduction in acquisition of title along the side boundary.
- Plot 11b – a new plot for the acquisition of permanent rights to match the reduction in acquisition of title of land under the viaduct for the area of acquisition of title
- Plot 14 - change from the acquisition of title to the acquisition of permanent rights.

11.0 Regard to the Provisions of Article 1 of the First Protocol to the European Convention on Human Rights and Article 8.

11.1 The provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been considered, including Article 8 and Article 1 of the First Protocol. As explained above, consideration has been given to the effects of the scheme and the Order, and to potential alternatives. It has been concluded that the purposes for which the Order is made sufficiently justify the interference with human rights of those affected, including the owners of the interests in land affected. The Order involves the least interference with the rights of those affected necessary to achieve the objectives of the scheme. The objectives of the scheme could not be met by means which interfere less with the rights of those affected. The interference is proportionate and is justified and the Link Road strikes a fair balance between the public interest and the rights of those affected. In no case does the Order have an excessive or disproportionate effect on the rights of those affected.

11.2 The scheme has been widely publicised, and the opportunity given to comment as part of the public consultation undertaken during the scheme development. Formal consultation was also undertaken as part of the planning application process. All those affected by the Order were informed

by press, public notices, and letter as appropriate and had the right to make representations to the Secretary of State and similarly to this inquiry.

- 11.3 With the exception of a wedge of amenity land from the rear of land associated with a residential property, Perryfield Farm, all other land required is held for existing or potential commercial, employment, or utility company use. Except for a derelict building and a small agricultural shed that both need to be demolished, all the land is generally unused, uncultivated grass and scrub land. It is considered that there is minimum interference with the human rights of the landowners whose land is required and that the use of compulsory purchase is justified.
- 11.4 There has been extensive engagement with the owner of Perryfield Farm and their previous agent. From the outset, they have indicated their desire to remain living at the property. There have been many discussions and the offer of mitigation proposals and accommodation works relating to various detailed matters such as landscaping, noise mitigation, fencing and the provision of an alternative access directly from the new Link Road roundabout. It is considered that through the design of the scheme and offer of mitigation proposals, there will be limited interference with the human rights of the owners.
- 11.5 The benefits of reduced congestion and improved journey reliability for the wider community will also benefit the commercial, wastewater company and Junior Kings School from whom most land is required.
- 11.6 The use of a viaduct, rather than individual bridge crossings of the railway and both arms of the River Great Stour, has been selected in preference to embankments that would have required a significantly greater area of permanent land take and will be less visually intrusive.
- 11.7 Land is temporarily required for a site compound and material storage during the construction period. The area is the minimum required to accommodate site offices, parking, welfare facilities and material storage including viaduct beams. Temporary working space is also required for construction of the viaduct and the area is the minimum required to allow the sweep of cranes moving the viaduct beams into position. The use of this land is therefore included in the Order as permanent acquisition of rights. However, the Council has no requirement to take permanent ownership and owners have indicated a willingness to grant the Council licences for the temporary use of this land.
- 11.8 It is therefore considered that the proposed compulsory purchase is for the minimum amount of land required for the scheme and achieves minimum interference for the landowners and use of their retained land.

12.0 Side Roads Order

- 12.1 There are minor changes to two private means of access that are necessitated by the construction of the A28 roundabout. The closure of the existing accesses and the provision of replacement accesses are being formalised within a Side Roads Order under Sections 14 and 125 of the Highways Act 1980. A replacement access to the allocated employment land, and separately to Perryfield Farm is being provided from the new A28 roundabout.
- 12.2 The Side Roads Order also authorises improvements to the A28 and Shalloak Road associated with the delivery of the Link Road and wider Relief Road under s. 14 of the Highways Act 1980. The improvements are cross-hatched on the Side Roads Order map and relate to:
- A28 Sturry Road from 5 metres north east of the entrance to Waste Treatment Works in a north east direction for 200 metres
 - Shalloak Road from Broad Oak level crossing for a distance of 110 metres in a north east direction
- 12.3 There is one objection to the Side Roads Order from [REDACTED] of Perryfield Farm. Their letter of objection does not provide any reason for their objection but requests permission to make a statement of case if the matter is dealt with by means of an inquiry. The Council will consider the substance of any objection made by the [REDACTED] in a statement of case and will respond accordingly in due course.

13.0 Equalities Impact Assessment

- 13.1 An Equalities Impact Assessment was prepared and signed off by the Council's Highways and Transportation senior management on 21 July 2017 (Doc 13.1). There are not considered to be any "Adverse" impacts on groups or individuals with protected characteristics and both positive and negative impacts are considered to be "Low". Public engagement and specific contact with local organisations and community groups will continue in accordance with the Action Plan.
- 13.2 The Link Road scheme has not changed in any significant way from the initial proposal and the Equalities Impact Assessment remains valid. However, it is a live document and was last updated in July 2023. There are both positive and negative impacts on specific protected characteristics as a result of the scheme. However, those negative impacts associated with the construction phase can be addressed with mitigating actions, as set out in the EqlA.

- 13.3 The current Equalities Impact Assessment was considered by the Council's senior officers and Members, and the Cabinet Member when taking the decisions between 2015 and 2023 for the delivery of the Link Road scheme including the use of compulsory purchase powers.
- 13.4 Further Equalities and Impacts Assessment will be undertaken as part of the design works being undertaken by VolkertFitzpatrick as part of the Design and Build Contract.

14.0 Summary and Conclusions

- 14.1 Building the Link Road and the wider Relief Road at the earliest opportunity is key to the delivery of the growth identified in the Canterbury District Local Plan (Doc 7.5).
- 14.2 A wide range of transport and housing delivery challenges exist in the Sturry/Canterbury area which have led to the clear need for transport investment. In providing the Relief Road, the investment and infrastructure will provide journey time improvement benefits, benefits for sustainable road users and improvements to air quality. The Relief Road will become an adopted public highway, for the benefit of all. The resilience of the local highway network will also increase through the delivery of the Relief Road as it becomes more capable of accommodating the higher levels of new housing planned in the area as well as providing viable alternative routes for highway maintenance and works by utility companies as well as maintenance works on the Sturry and Broad Oak level crossings.
- 14.3 The Council has been working over an extended period of time to design and secure the consents and land required to enable delivery of the Scheme. Without acquisition of the necessary land and rights through the confirmation of the CPO, the Council will be unable to deliver the Link Road.
- 14.4 The delivery of the Link Road as a necessary part of the Relief Road will not only deliver improvements to the highway but will also enable the delivery of housing at the Land at Sturry site as well as a new primary school and car park to support use of Sturry station.
- 14.5 I consider that the Council has demonstrated that there is a compelling case in the public interest for the confirmation of the CPO. I summarise below the key paragraphs in the CPO Guidance that will need to be considered by the decision-maker and demonstrate how the Council has complied with those paragraphs.

a) Has the authority taken reasonable steps to acquire the land and rights by agreement – Paragraphs 2 and 16.

- 14.6 Yes. The County Council has taken reasonable steps to acquire the necessary land and rights by agreement with first contact being made with landowners at the outset of scheme development in 2018. Heads of Terms and compensation has been agreed with one landowner (Valencia). In respect of the other landowners, the Council has actively engaged with them and continues to try to acquire land and rights by agreement.

b) Do the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. – Paragraph 2.

- 14.7 Yes. As I deal with in Section 11, the Council considers that there is a strong justification for interfering with human rights of landowners in order to deliver the Link Road in the public interest. Only land from one residential property is affected with all remaining land required being held by a water company, an owner holding land allocated for employment, a commercial business and a rail infrastructure organisation. For all acquisitions, every effort has been made to minimise the land take and every effort will be made to minimise inconvenience during the construction period. For the owner of the residential property a range of measures relating to access, landscaping and accommodation works have been offered to help mitigate any adverse impacts on the enjoyment of their property.

c) Has the Public Sector Equality Duty been taken into account? – Paragraph 6.

- 14.8 Yes. As I deal with in Section 13, an Equalities Impact Assessment has been carried out and will be kept under review. As a road improvement scheme with continuous footways and cycleways, signal controlled crossings, street lighting, and facilities for public transport, it provides equally for all members of society. The improvements will have a positive impacts on protected groups in the long term once constructed.

d) Does the authority have a clear idea of how it intends to use the land it is proposing to acquire? – Paragraph 13.

- 14.9 Yes. The scheme proposals are well advanced and clear.

e) Can the authority show all the necessary resources are likely to be available to achieve that end in a relevant timeframe, and does it demonstrate sources of funding and timing of funding? – Paragraphs 13 and 14.

- 14.10 Yes. As set out in Section 6, the funding for the scheme has been identified. As some of the funding will be delivered by the future release of sums in s106 agreements, the Council recognises that it may need to forward fund stages of

the development. The Council's objective is to start construction of the scheme in spring 2026.

f) Are there any impediments to the scheme going ahead *(eg planning and infrastructure delivery)? – Paragraph 15.

14.11 As set out in Section 7 the planning consent and funding are all in place and a design and build contractor appointed for the Link Road,. Subject to completing the voluntary land transfer from Valencia, the County Council are a position to implement the consent for the Link Road by starting the safety improvements to Shalloak Road. The commencement of work for the main part of the Link Road, i.e. the viaduct, will align with the implementation of the Land at Sturry planning consent for the development and the delivery of the Land at Sturry portion of the Relief Road.

14.12 The promoter and potential developer of the Land at Sturry Site have invested heavily in bringing the site forward through the planning process and have provided letters of support confirming their intention to progress the site and implement the planning consent (appendices A and B).

15.0 Professional Declaration

15.1 I confirm that the evidence I have provided is from my own knowledge and is true. I confirm that the opinions expressed are my true and complete professional opinions. I confirm that I understand and have complied with my duty as an expert witness which overrides any duty to those paying me, that I have given my evidence impartially and objectively, and that I will continue to comply with that duty as required.

Signed: *R.K.Shelton*

4 September 2024

References

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- Doc 1.2 Kent County Council. (2023). *The CPO Order Map*.
- Doc 1.6 Kent County Council. (2023). *Statement of Case*.
- Doc 1.7 Letters of Objection from Network Rail dated 14/12/2023
- Doc 1.8 E-mail Notifying objection from UKPN/SEPN dated 28/12/23
- Doc 1.9 Letters of Objection from [REDACTED] dated 18/12/2023
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- Doc 1.11.02 Jonathan East Scheme Proofs of Evidence Main
- Doc 7.11 South East Local Enterprise Partnership. (2014). *Growth Deal and Strategic Economic Plan*. Chelmsford: South East Local Enterprise Partnership.
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- Doc 8.4 SELEP Growth Deal and Strategic Economic Plan

Doc 8.5 South East Local Enterprise Partnership. (2023). *Accountability Board Agenda Pack (22 September 2023)*. Chelmsford: South East Local Enterprise Partnership.

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Doc 9.1 Land at Sturry/Broad Oak Farm CA/20/02826 Planning Permission – March 2021

Doc 9.2 Land at Sturry/Broad Oak Farm CA/20/02826 Masterplan

Doc 9.3 Land at Sturry/Broad Oak Farm CA/20/02826 S106 – March 2021

Doc 9.4 Land at Broad Oak Farm CA/18/0868 – March 2021

Doc 9.5 Hoplands Farm CA/16/00404/OUT – July 2017

Doc 9.7 Former Chislet Colliery, Hersden CA/16/00673/OUT November 2018

Doc 9.8 Land to North of Hersden Layout Plan

Doc 9.9 Land North of Popes Lane letter from Highway Authority dated 9 November 2023

Doc.9.10 Land North of Popes Lane– Development Framework Plan

Doc 11.2 Kent County Council. (2021). *Notification of Grant of Permission to Develop Land*.

Doc 12.7 Environment & Transport Cabinet Committee Report– July 2023

Doc 13.1 Kent County Council. (2023). *Equalities Impact Assessment: Sturry Link Road*. Maidstone: Kent County Council.

Appendices

Appendix A Environ Design letter of support

Appendix B Hyde Housing letter of support

Appendix C Letter from KCC to SELEP confirming scheme funding

Appendix D Plan of Sturry Link Road and associated developments

Appendix E Draft revised CPO Plan

Appendix F Draft revised CPO Schedule

Appendix G Extract of [REDACTED] Objections and the Council's responses from the Statement of Case

Appendix H Letter from the Council to [REDACTED] 2-7-24