
**DARLINGTON EASTERN TRANSPORT CORRIDOR
COMPULSORY PURCHASE AND SIDE ROADS ORDERS**

**Responsible Cabinet Member(s) -Councillor Nick Wallis,
Highways and Transport Portfolio**

Responsible Director(s) - John Buxton, Director of Development and Environment

Purpose of Report

1. To outline the new orders required for the Darlington Eastern Transport Corridor (DETC) scheme to proceed.

Information and Analysis

2. In February 2001 (minute C282) and December 2002 (minute C165), members considered reports authorising that a Compulsory Purchase Order be made for this scheme under sections 239 and 240 of the Highways Act 1980, in respect of land identified in these reports. The Compulsory Purchase Order is required to facilitate the land acquisition for the project, which is set out as policy in the Structure Plan, Local Plan and Local Transport Plan. Briefly, the DETC involves the construction of a road from Haughton Road eastwards to the A66 and will open up land on the eastern side of Darlington for development and will relieve congestion through residential communities on Yarm Road, McMullen Road and sections of Haughton Road.
3. Members also authorised the making of a Side Roads Order for the DETC, in June 2001 (minute C378) as amended in June 2003 (minute C17). The Order was required to facilitate changes to the existing highway network in conjunction with the implementation of the DETC.
4. Both orders were made on 21 November 2003, advertised and submitted to the Secretary of State, for confirmation. They are still with the Secretary of State, pending a public inquiry into objections. In the course of 2004, it has become apparent that a revised design is required for the DETC scheme. This revision to the original proposal has arisen due to an issue over the status of planning permission granted on appeal to Lingfield Properties in 1991 for a site to the east of Lingfield Point. This matter is currently before the High Court and is to be heard on 8-10 December 2004. Whilst it is the Council's contention that this planning permission has now lapsed, Lingfield Properties and Terrace Hill (who have a development option on this land) have a contrary view. This debate is of relevance to the DETC scheme, since the original proposal included an access road from the DETC itself to Lingfield Point and the 'Great Park' site. Construction of the section to Lingfield Point as proposed in the existing orders would not enable Lingfield Properties to implement the

planning permission, should this be judged to be still valid.

5. The revised DETC proposal, which leaves aside the issue of the validity of the planning permission, withdraws the section of road that crosses Lingfield Property land and replaces it with a new access to Lingfield Point further to the west that does not conflict with the Lingfield Properties' 1991 planning layout. This solution should permit the DETC scheme to progress to formal approval stage by its funding bodies (who require all legal processes to be complete), without being delayed in the process of determining the validity of the Lingfield Properties planning permission. Current schedules in the Local Transport Plan investment programme assume that construction will occur during 2005 to 2007. This gives a deadline this financial year for the making of orders and completing any inquiry into objections, otherwise the money is likely to be lost.
6. In the light of this advice, it is the opinion of officers' that the most expeditious method to achieve formal approval for the DETC, is by the withdrawal of the existing orders and the seeking of new replacement ones. Details of the land required for the Compulsory Purchase Order and the Side Roads Order proposals are given below.
7. In pursuing a compulsory purchase order process, Members must be aware of the Human Rights Act 1998 (which enacts the European Convention on Human Rights in national law). None of the property required for the proposal comprises a home, but as land is proposed to be appropriated from private persons Article 1 of the First Protocol to the Convention applies. This article states that:-

“every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law”.
8. In deciding whether the proposed action is in the public interest the Borough Council should try to strike a fair balance between individual and community interests. In striking such a balance Cabinet must pay particular attention to the question of proportionality of the means employed, i.e. whether the appropriation of an individual's property is proportional to the public interest objective in building the road. In this case officers' advice is that it is.
9. It is also relevant in this context for Members to consider that the weight of the burden to be borne by the individual land owners is considerably mitigated due to the fact that the affected individuals can claim compensation and that there is an established system of appeal.
10. The second requirement for the orders is that they are made in accordance with law. This will be the case with both orders here. The orders are authorised by the Highways Act 1980 and the procedures for the Compulsory Purchase Order which will be followed are laid down by the Acquisition of Land Act 1981.
11. The Compulsory Purchase Order and the Side Roads Order can be justified as being within the derogations permitted under the terms of the Human Rights Act, as the appropriation of land and closing of rights of access are both in the public interest and pursued through lawful powers in a proportionate fashion.

12. The proposed new Compulsory Purchase Order differs from the existing one as follows:-
The plot numbers relate to those shown in plan A in **Appendix 1**:-
- (a) Plot 6, Lingfield Properties Ltd: Land requirement increased to accommodate new 3 arm signal controlled junction at the DETC/new access road intersection.
 - (b) Plot 7, Lingfield Properties Ltd: Land requirement reduced as a consequence of the deletion of the access road between Lingfield Point and the roundabout at this location. This reduction in the land requirement removes the conflict with the disputed planning permission.
 - (c) Plot 13, Lingfield Investments Ltd: Land requirement to accommodate new access road and roundabout to serve Lingfield Point and Lingfield Properties' land.
- The geographical area of the revised Compulsory Purchase Order is shown in **Appendix 1** and covers 172,720 square metres.
13. The schedule shown in **Appendix 1**, lists the land which a compulsory purchase order is recommended to be made, under sections 239 and 240 of the Highways Act 1980.
14. As a consequence of the revision in the scheme design and the new Compulsory Purchase Order it is considered desirable that a new Side Roads Order be made for the scheme. As shown in plan B in **Appendix 2**, this permits the delivery of the changes to the DETC scheme outlined in paragraph 11 above.

Outcome of Consultation

15. The DETC has been the subject of a detailed planning application and local consultation with residents' groups, the Darlington Cycling Forum, the Darlington Transport Forum, Sustrans and the Town Centre Board. The previous Compulsory Purchase and Side Roads Orders were also published for public comment. The scheme's progress to date has essentially been delayed as a result of objections from one landowner.

Legal Implications

16. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

17. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

Council Policy Framework

18. The issues contained within this report do not represent change to Council policy or the Council's policy framework.

Decision Deadline

19. For the purpose of the 'call-in' procedure this does not represent an urgent matter so as to meet the funding deadlines for the scheme.

Recommendation

20. It is recommended that Members:-

- (a) Approve the making of the proposed Compulsory Purchase Order 2004 under sections 239 and 240 of the Highways Act 1980 for the Darlington Eastern Transport Corridor as detailed in the schedule in **Appendix 1** and shown in plan A in of this report.
- (b) Approve the making of the proposed Side Roads Order 2004 under sections 14 and 125 of the Highways Act 1980 for the Darlington Eastern Transport Corridor, as detailed in the schedule **in Appendix 2** and shown in plan B.
- (c) Authorise the Director of Development and Environment to make any incidental or minor amendments to the orders, or amendments to those documents required following negotiations with any affected party.
- (d) Authorise the Director of Development and Environment to negotiate terms for the acquisition of all the land required for the scheme by agreement, with terms to be submitted to a future Cabinet meeting for approval.
- (e) Authorise the Borough Solicitor to complete all necessary acquisitions as necessary; and
- (f) Approve the withdrawal of the existing Orders referred to above.

Reasons

21. The recommendations are supported by the following reasons :-
- (a) To permit the Darlington Eastern Transport Corridor scheme progress to scheduled implementation during 2005/06.
 - (b) To ensure the legality of the revisions to the scheme design, as described in this report.

John Buxton
Director of Development and Environment

Background Papers

Land reference plans – PP/06 & PP/08.

Simon Houldsworth: Extension 2701

APPENDIX 1 : COMPULSORY PURCHASE ORDER SCHEDULE

Number on Map	Extent, description and situation of the land	Owners or reputed owners	Lessees or reputed lessees	Occupiers (except licensees or tenants for a month or less)
1	2	3	4	5
NOTE :- In column 2, the Ordnance Survey coordinates given are for the approximate centre of each plot. The 1/2500 scale Ordnance Survey sheet containing each plot is denoted by a reference letter A-D as shown in the table at the end of this schedule.				
1	265 square metres; domestic garden adjacent to no.157 Houghton Road, Darlington. 429848,515255 sheet A	R.Roper, 9 Grangeside, Darlington, DL3 8QJ	To be determined	To be determined
2	349 square metres; Rough grassland, formerly trackbed of the Stockton to Darlington Railway. 429870,515280 sheet A	BRB (Residuary) LTD, SW1H 0EU	-	-
3	22645 square metres; Landfill, grassland and scrubland to the west of highway C182 McMullen Road and south of the former Stockton to Darlington Railway. 430580,515270 sheet B	R.Blackett & Son Ltd. c/o Latimer Hinks 5-8 Priestgate Darlington DL11NL	-	T.M. Ward (Darlington) Ltd. Faverdale Industrial Estate, Darlington.
3A	64443 square metres; Landfill, grassland and scrubland to the west of highway C182 McMullen Road and south of the former Stockton to Darlington Railway. 430580,515180 sheet B	R.Blackett & Son Ltd. c/o Latimer Hinks 5-8 Priestgate Darlington DL11NL	-	T.M. Ward (Darlington) Ltd. Faverdale Industrial Estate, Darlington
3B	23252 square metres; Grassland and scrubland to the west of highway C182 McMullen Road and south of the former Stockton to Darlington Railway. 430264,515215 sheet B	R.Blackett & Son Ltd. c/o Latimer Hinks 5-8 Priestgate Darlington DL11NL	-	T.M. Ward (Darlington) Ltd. Faverdale Industrial Estate, Darlington

4	5443 square metres; Scrubland and peripheral industrial land, east of highway C182 McMullen Road and south of the former Stockton to Darlington Railway. 431270,515280 sheet C	Lingfield Investments Ltd. Allan House, 10, John Princes Street, London. W1G 0AH	-	Rothmans International Tobacco (UK) Ltd. Oxford Road, Aylesbury, Buckinghamshire. HP21 8SZ
5	491 square metres; Scrubland, east of highway C182 McMullen Road and south of the former Stockton to Darlington Railway. 431395,515285 sheet C	Unknown	-	-

SCHEDULE (contd.)

Number on Map	Extent, description and situation of the land	Owners or reputed owners	Lessees or reputed lessees	Occupiers (except licensees or tenants for a month or less)
1	2	3	4	5
6	13345 square metres; Scrubland and peripheral industrial land south of the former Stockton to Darlington Railway and west of Trunk Road A66(T). 431800,515270 sheets C & D	Lingfield Properties - Darlington Ltd.	-	Owner
7	1124 square metres; Scrub land south of the former Stockton to Darlington Railway and west of Trunk Road A66(T). 432176,515064 sheet D	Lingfield Properties - Darlington Ltd.	-	Owner
8	20082 square metres; Arable land south of the former Stockton to Darlington Railway and west of Trunk Road A66(T). 432260,515250 sheet D	Durham Cathedral, Chapter Office, The College, Durham. DH1 3EH	Messrs. S.P.&M. Dent, Great Burdon Farm, Darlington DL1 3JN	-
8A	1511 square metres; Arable land south of the former Stockton to Darlington Railway and west of Trunk Road A66(T). 432215,515170 sheet D	Durham Cathedral, Chapter Office, The College, Durham. DH1 3EH	Messrs. S.P.&M. Dent, Great Burdon Farm, Darlington. DL1 3JN	-
9	18 square metres ; Arable land north of the former Stockton to Darlington Railway and	Durham Cathedral, Chapter Office, The College, Durham.	Messrs. S.P.&M.Dent, Great Burdon Farm,	-

	west of Trunk Road A66(T). 432488,515284 sheet D	DH1 3EH	Darlington. DL1 3JN	
10	2980 square metres; Arable land north of the former Stockton to Darlington Railway and west of Trunk Road A66(T). 432585,515294 sheet D	Durham Cathedral, Chapter Office, The College, Durham. DH1 3EH	Mr J.D. Hill, Springhouse Farm, Sadberge, Co. Durham. DL2 1RL	-

SCHEDULE (contd.)

Number on Map	Extent, description and situation of the land	Owners or reputed owners	Lessees or reputed lessees	Occupiers (except licensees or tenants for a month or less)
1	2	3	4	5
11	6557 square metres; Arable land south of the former Stockton to Darlington Railway and west of Trunk Road A66(T). 432540,515235 sheet D	Durham Cathedral, Chapter Office, The College, Durham. DH1 3EH	Mr J.D. Hill, Springhouse Farm, Sadberge, Co. Durham. DL2 1RL	-
12	126 square metres; Arable land south of the former Stockton to Darlington Railway and east of Trunk Road A66(T). 432724,515213 sheet D	Durham Cathedral, Chapter Office, The College, Durham. DH1 3EH	Mr J.D. Hill, Springhouse Farm, Sadberge, Co. Durham. DL2 1RL	-
12A	1279 square metres; Arable land south of the former Stockton to Darlington Railway and east of Trunk Road A66(T). 432725,515150 sheet D	Durham Cathedral, Chapter Office, The College, Durham. DH1 3EH	Mr J.D. Hill, Springhouse Farm, Sadberge, Co. Durham. DL2 1RL	-
13	8810 square metres; Scrub land south of the former Stockton to Darlington Railway and west of Trunk Road A66(T). 431929,515162 sheet C	Lingfield Investments Ltd. Allan House, 10, John Princes Street, London. W1G 0AH	-	-

TABLE OF ORDNANCE SURVEY SHEETS - Referred to at the beginning of the Schedule

<u>Letter Reference</u>	<u>Sheet No: (Durham)</u>	<u>Edition</u>
A	NZ 2915	1997
B	NZ 3015	1997
C	NZ 3115	1997
D	NZ 3215	1997

Dated this day of 2003

THE COMMON SEAL of THE)
BOROUGH COUNCIL OF)
DARLINGTON)
was hereunto affixed to)
this deed BY ORDER

APPENDIX 2 : SIDE ROADS ORDERS SCHEDULE

HIGHWAYS TO BE IMPROVED

- 1) Unclassified Road Barton Street
- 2) C181 Hundens lane
- 3) B6279 Haughton Road
- 4) C182 McMullen Road.
- 5) Bridleway No. 3
- 6) Bridleway No. 8

THE SCHEDULE (Contd.)

HIGHWAYS TO BE STOPPED UP	Reference letter of New highway
1. Bridleway No. 60 (Darlington) from its junction with B6279 Haughton Road for a distance of 373 metres in an easterly direction.	A Bridleway
2. Bridleway No. 60 (Darlington) from its junction with C182 McMullen Road for a distance of 12 metres in a westerly direction.	
3. Existing C182 McMullen Road from point 4 metres north of the former Stockton to Darlington Railway for a distance of 48 metres in a southerly direction.	The Classified Road
4. Bridleway No. 61 (Darlington) from its junction with C182 McMullen Road for a distance of 5 metres in an easterly direction.	
5. Footpath No. 32 (Darlington) from its junction with C182 McMullen road for a distance of 638 metres in an easterly direction then for 40 metres in an approximately northerly direction to its junction with Coombe Drive.	B Bridleway
6. Existing redundant bus turning facility adjacent to Coombe Drive and opposite Nos. 8.18 Coombe Drive.	-
7. Footpath No. 33 (Darlington) from a point 182 metres west of its junction with McMullen Road for a distance of 22 metres in a westerly direction.	G

THE SCHEDULE (Contd.)

PRIVATE MEANS OF ACCESS TO BE STOPPED UP	Reference number of New Means of Access
1. Access to the completed construction waste disposal site from the western boundary of the C182 McMullen Road at a point 94 metres south of the centreline of the Coombe Drive junction for a distance of 91 metres in a westerly direction.	1
2. Access to field south of the former Stockton to Darlington Railway 368 metres west of the A66(T) western boundary, from the southern ex-railway boundary and extending 34 metres in a southerly direction.	2
3. Access to field south of the former Stockton to Darlington Railway 166 metres west of the A66(T) western boundary, from the southern ex-railway boundary and extending 38 metres in a southerly direction.	2 , 4
4. Access to field south of the former Stockton to Darlington Railway 156 metres west of the A66(T) western boundary, from the southern ex-railway boundary and extending 54 metres in a southerly direction.	3, 5

THE SCHEDULE (Contd.)

NEW HIGHWAYS

Reference letter

A - Bridleway

B - Bridleway

C - Bridleway

D - Bridleway

E - Bridleway

F

G

H

I

Given under the Common Seal of the Council on the day of
.....2004.

The Common Seal of the Council
was hereunto affixed
in the presence of:

..... Chairman of the Council

..... Secretary to the Council