

EAST SUSSEX COUNTY COUNCIL

in favour of

HASTINGS BOROUGH COUNCIL

and

ROTHER DISTRICT COUNCIL

UNDERTAKING

under (inter alia) Section 106 of the Town and Country Planning Act 1990 relating to land known as A259 Belle Hill, Bexhill on Sea to B2092 Queensway, St Leonards on Sea, East Sussex

BEXHILL HASTINGS LINK ROAD

**ANNUAL REPORT BY HEAD OF PLANNING IN ACCORDANCE WITH
PROVISION 4.5**

28 July 2014

**BEXHILL HASTINGS LINK ROAD
SECTION 106 UNDERTAKING
ANNUAL REPORT BY HEAD OF PLANNING – 2013/14**

1 Introduction

- 1.1 Provision 4.5 of the Section 106 Undertaking for the Bexhill Hastings Link Road requires the Head of Planning to annually report progress to Hastings Borough Council and Rother District Council on the compliance with the planning obligations contained in the Undertaking. Annual Reports have been forwarded to the Councils in 2010, 2011, 2012 and 2013, and this Annual Report needs to be published by 28 July 2014.
- 1.2 Substantial progress has been made in the last 12 months. Work on construction has continued apace with structures being erected and major earthmoving being under undertaken. Woodsgate Park Overbridge has been reconstructed. The urban section is being partially completed to act as a temporary diversion while the existing Ninfield Road Bridge is replaced. At the eastern end of the scheme, construction of a new bridge over the London – Hastings Railway Line has commenced.
- 1.3 This Annual Report will cover the current position on BHLR and provide an update on the provisions of the Undertaking.

2. Current position on the Bexhill Hastings Link Road

- 2.1 The planning application for BHLR was considered by East Sussex County Council's Planning Committee in December 2008 following rigorous appraisal of the application and the accompanying Environmental Statement. It was resolved that subject to the Secretary of State not calling in the application and the completion of a Legal Undertaking, that planning permission should be granted. The Secretary of State for Communities and Local Government on 3 February 2009 decided not to 'call-in' the application and a Legal Undertaking was completed in July 2009. Consequently planning permission was granted on 29 July 2009.
- 2.2 The County Council made Compulsory Purchase Orders and negotiated with landowners to purchase land needed both directly for the link road and also for new environmental habitats. Objections to the Orders required a Public Inquiry to be held. The Public Inquiry started on 10 November 2009 at the White Rock Theatre, Hastings in front of an independent Inspector. The Inquiry looked at the land needed for the road and for new environmental habitats, and whether East Sussex County Council should be allowed to buy it from current owners by using compulsory purchase powers. Nearly 40 people came to the Inquiry to give evidence, and the Inspector made two site visits to look at the Council's proposed route and alternative routes suggested by other people.
- 2.3 The Public Inquiry into the Compulsory Purchase Orders for the Link Road closed in early December 2009. The Inspector then completed his Report. Subsequently the

Secretary of State accepted the Inspector's recommendations and the Scheme got the go-ahead.

- 2.4 Details pertaining to conditions imposed on the BHLR were submitted to the County Planning Authority. Details pertaining to the 19 pre-commencement conditions were approved by 4 April 2013. All the outstanding requirements and details requiring approval under the S106 Legal Undertaking prior to the commencement of development were approved by 11 April 2013. Formal commencement of development of BHLR occurred on 11 April 2013.
- 2.5 Seven Non-Material Amendment (NMA) applications under Section 96A of the Town & Country Planning Act 1990 were submitted on 26 November and 10 December 2012. The NMAs covered a variety of changes including replacing an underground storage tank with open ditches (swales), reduction in verge widths, omission of a proposed overbridge by retaining an existing structure, alterations to the Greenway including diversions to use existing footbridges and a ford crossing for horses, and deletion of a short bus lane at Queensway. Planning Committee considered the NMAs at their meeting on 10 July 2013. The Committee resolved to grant 5 of the NMAs and delegated authority to the Head of Planning to grant the other 2 NMAs following the receipt of satisfactory further details. These have not yet been determined.
- 2.6 A further NMA was approved by Planning Committee on 23 April 2014. The application was to alter the wording of 8 conditions to allow for the use of the Link Road as a temporary diversion without the entire length having been constructed or all the specified works in each condition having been implemented. The purpose was to use the route of the link road as a temporary diversion whilst the Ninfield Road Bridge was re-constructed. It was envisaged that the temporary use would cover a period of 9 months. The Legal Undertaking is similarly being varied.
- 2.7 Site works progress include:
- Reconstruction of Belle Hill Junction
 - Completion of Chapel Path Underpass
 - Reconstruction of Woodsgate Park Overbridge
 - Temporary footbridge at Ninfield Road
 - Earthworks on certain fill areas which will support the road
 - Commencement of some of the rural bridges
 - Start on the Crowhurst Road realignment
 - Construction of the piers for the bridge over the railway
 - Earthworks at the Queensway junction
- 2.8 Archaeological investigations have been carried out in advance of construction. Finds have demonstrated occupation of the landscape since the last Ice Age. Over 100 flint scatters sites excavated revealed 50,000 worked flints and evidence of at least one structure showing how the hunter-gatherers lived in the area. Excavation at Upper Wilting Farm has revealed occupation from the 1st Century AD including an iron working site.

- 2.9 Planning permission has been granted by Rother District Council for the North East Bexhill Gateway Road including a roundabout junction on the Link Road north of Glovers Farm. This road is intended to serve new commercial development which will regenerate the area.

3 Monitoring Report

- 3.1 The Annual Report from the Head of Planning needs to consider progress on the planning obligations in the Undertaking. This will cover:
- i. The Construction Environmental Management Plan (CEMP)
 - ii. The Operational Environmental Management Plan (OEMP)
 - iii. The Complementary Highway Improvement Plan (CHIP)
 - iv. The Compensatory Habitat Scheme (CHS)
 - v. Adams Farm Barn
 - vi. The Monitoring Scheme

The Construction Environmental Management Plan

- 3.2 The S106 Legal Undertaking related to the planning permission RR/2474/CC (EIA) required approval of a CEMP before commencement of development. The S106 Legal Undertaking sets out the areas of interest to be included in the CEMP. The relevant arrangements from the S106 Legal Undertaking were considered in the submitted CEMP together with references to where there is overlap with specific conditions attached to the planning permission and how the CEMP related to other Environmental Management Plans.
- 3.3 The details included in the CEMP were subject to careful scrutiny by the Environmental Advice Team within the County Council as well as the Environment Agency resulting in several revisions to the CEMP. The revised version was considered acceptable although there remained certain items outstanding which could not be finalised until the appointed contractor is on site. These include noise monitoring during construction work, confirmation of tree protection measures, and completed travel plans. The mechanism for this is mostly through Method Statements referred to in the CEMP, details of which have since been submitted.
- 3.4 The details of the CEMP submitted pursuant to the S106 Legal Undertaking attached to RR/2474/CC(EIA) were considered using the Bexhill-Hastings Link Road Environmental Statement and the Addendum Environmental Statement, which formed part of the determination of the Link Road planning permission. The information contained within the previously submitted Environmental Statement and Addendum is considered to be adequate to assess the environmental effects of the development and thereby facilitate the determination of the submitted details related to the Construction Environmental Management Plan. It should be noted that a revised estimate of emissions of CO₂e from construction activities was included in the CEMP compared to the Environmental Statement and Addendum Environmental Statement. This is the result of more accurate details now being available compared to the figures compiled for the Environmental Statement which had a greater range of uncertainty.

- 3.5 The details in the CEMP (Revision 7) were approved on 11 April 2013. The Travel Plan has been submitted. Method Statements have been prepared related to work areas. A programme related to the phasing of likely emissions of CO₂e has been submitted and monthly monitoring reports prepared. After initial set up implications, current CO₂e emissions are below the 5% target and achieving a 12% reduction. The project is currently achieving 90% diversion of waste from landfill for construction waste. Dust has been an issue during dry construction periods. Water dowers have been used and street sweepers deployed. However, dust has been one of the causes of complaints by the local community.
- 3.6 The main works to exclude and relocate badgers from setts has been completed except that additional changes are required in the area of the Ninfield Road to Glovers Farm railway cutting. Reptiles were excluded from construction areas. New ponds have yet to be constructed. Over 300 dormouse nest boxes have been installed.

The Operational Environmental Management Plan

- 3.7 The S106 Legal Undertaking related to the planning permission RR/2474/CC (EPA) requires approval of an OEMP prior to the opening of the BHLR for public use. The S106 Legal Undertaking sets out the areas of interest to be included in the OEMP. To date, no details have yet been submitted.

The Complementary Highway Improvement Plan

- 3.8 The CHIP as submitted contains proposals to mitigate the impact of increased traffic along The Ridge through improvements to junctions at key stress points identified on the Highway Network and the introduction of parking restrictions. It also seeks to lock in the benefits of reduced traffic along the A259 through the introduction of bus priority measures. A delivery programme was included outlining when the proposed measures will be designed, consulted on (where appropriate) and delivered.
- 3.9 It is recognised that some of the proposed measures in the CHIP are at a feasibility stage and will require further design and, in some cases, consultation. It was determined therefore that the CHIP should be implemented in accordance with the timetable included in Appendix 3. The County Planning Authority will also need to be kept up-to-date on the progression and implementation of the CHIP. Any changes to the CHIP to mitigate the effects of traffic impacts from the Development (BHLR) would need approval.
- 3.10 The CHIP was approved on 5 April 2013. Detail design is underway of The Ridge/Queensway and Harrow Lane Junctions. The A259 Bus Priority Measures were considered by Lead Member for Transport and Environment on 28 April 2014. It was reported that traffic levels could reduce by about 40% once the Link Road opens allowing sections of bus lane to be introduced whilst maintaining sufficient capacity for the remaining traffic. The proposals are now being taken forward to detailed design. Consultants have also been working on a Ridge Corridor Movement and Access Study.

The Compensatory Habitat Scheme

- 3.11 The Section 106 Legal Undertaking requires under Clause 3.4 and Schedule 5 that prior to the commencement of development approval is given for a Compensatory Habitat Scheme (CHS). This involves a Scheme for the provision and management of an area of 6.6 hectares of habitat to compensate for the loss of 3.3 hectares of habitat partly involving Marline Valley Woods SSSI.
- 3.12 Following discussions with the previous Landowners, the actual site to be provided as ecological compensation land covered only part of Area A referred to in the S106 Legal Undertaking and part of Area B was included. The overall area still comprised 6.6 hectares and Natural England agreed to the revised site location. The site includes 2 existing woodland areas – Alder Wood and Brickyard Shaw.
- 3.13 The details provided for the CHS included a mitigation strategy to address the impact of the proposed development on the SSSI and was set out in the Marline Valley Woods SSSI – Impacts and Mitigation Measures report dated January 2013. This report had been compiled following a request from Natural England for a stand alone document with the appropriate information extracted from the Landscape and Ecological Management Plan (LEMP) and the Environmental Master Plan (EMP) to support of the CHS. The report contained mitigation measures to be implemented in order to reduce and manage Air Quality, Pollution, Noise, Shading, Habitat Loss and Fragmentation. Management measures were proposed for Alder Wood and Brickyard Shaw. Reference was also made to where there is an overlap with specific conditions that have been attached to the planning permission (LEMP – Revision 9, Conditions 23, 24, and 25; Environmental Master Plans – Condition 7; Tree and Planting Plans – Condition 14). An indicative programme for implementation was provided by the LEMP, i.e. two years construction period and 7 years landscape aftercare period.
- 3.14 The long term management of the Habitat Land, as defined in the S106 Legal Undertaking, will be undertaken by East Sussex County Council (e-mail from Karl Taylor, Assistant Director, Operations, dated 30 January 2013).
- 3.15 The details that have been provided for the CHS, have been the subject of careful scrutiny by East Sussex County Council's Environmental Advice Team as well as Natural England, which has resulted in the requirement for a stand alone document. The County Ecologist and Natural England were satisfied with the submission details.
- 3.16 The details submitted have been considered using the Bexhill-Hastings Link Road Environmental Statement and Addendum Environmental Statement, which formed part of the determination of the Link Road planning permission. The information contained within the previously submitted Environmental Statement and Addendum, was considered to be adequate to assess the environmental effects of the development and thereby facilitate the determination of the submitted details related to the Compensatory Habitat Scheme.
- 3.17 Accordingly the CHS was approved on 9 April 2013. In addition, a pilot scheme is in hand for the Brede Valley Farm Habitat Project.

Adams Farm Barn

- 3.18 It is a requirement of the S106 Legal Undertaking that Adams Farm Barn shall be dismantled and relocated within the site. Detailed elevation and reconstruction plans must be prepared and submitted prior to the barn being dismantled. The plans have to be approved by the Head of Planning. BHLR cannot be opened for public use until Adams Farm Barn has been reconstructed in accordance with any approved plans.
- 3.19 The plans were approved by Head of Planning and planning permission has been issued by Rother District Council. Adams Farm Barn has now been dismantled and rebuilt on the other side of the existing farm. Special provision has been included for bats.

The Monitoring Scheme

- 3.20 The Monitoring Contribution required by Clause 3.6.1 of the Legal Undertaking was paid to the County Council prior to the commencement of development.
- 3.21 Work is currently being undertaken. So far, the main elements of monitoring undertaken have been in relation to planning conditions, archaeology and ecology. The focus of the ongoing monitoring will alter as construction work on the scheme continues. Joint monitoring and liaison with the Environmental Health Officer from Rother District Council has also been undertaken, primarily in relation to construction noise and dust issues.
- 3.22 Over 40 complaints have been submitted by residents to the Link Road Contact Centre. However, a small number of complaints relating to mud on the road, dust emanating from the site and out of hours being worked have been more formally investigated by the County Council's Planning Policy and Development Management Team. There have been a similar number of compliments received by the Contact Centre.

Other Matters

- 3.23 Further details of all the matters contained in this Annual Report can be found on the County Council website at [http://www.eastsussex.gov.uk/environment/planning/applications/register/Detail.aspx?appno=RR/2474/CC\(EIA\)&typ=dmw_planning](http://www.eastsussex.gov.uk/environment/planning/applications/register/Detail.aspx?appno=RR/2474/CC(EIA)&typ=dmw_planning)

<http://www.eastsussex.gov.uk/roadsandtransport/bexhillhastingslinkroad/latest.htm>

4 Conclusion

- 4.1 The Government has agreed to fund a contribution to the construction of the Bexhill Hastings Link Road and the necessary commencement permissions have now been granted. This has involved approving a number of requirements within the S106 Legal Undertaking. Major construction is now in hand. The Construction Environmental Management Plan, the Complementary Highway Improvement Plan and Compensatory Habitat Scheme have all been approved subject to conditions.

Plans for Adams Farm Barn relocation have been approved and the Barn has been rebuilt. The Operational Environmental Management Plan, and aspects of the Monitoring Scheme have yet to be completed and approved.

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East Sussex County Council