

**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 AND ENVIRONMENT IN  
ACCORDANCE WITH PROVISION 4.5**

**28 July 2015**

**BEXHILL HASTINGS LINK ROAD  
SECTION 106 UNDERTAKING  
ANNUAL REPORT BY HEAD OF PLANNING AND ENVIRONMENT – 2014/15**

**1 Introduction**

- 1.1 Provision 4.5 of the Section 106 Undertaking for the Bexhill Hastings Link Road requires the Head of Planning and Environment 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, 2013, and 2014. This Annual Report needs to be published by 28 July 2015.
- 1.2 Continued progress has been made in the last 12 months. Work on construction has continued apace with the urban section 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 progressed to completion of the bridge deck over the railway line which is now being used by site traffic. The link road will be known as Combe Valley Way.
- 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 delegate 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. Full details have, however, been submitted for NM/5 which involves the deletion of a proposed bridge over the Combe Haven stream along the northern Greenway route and its replacement with a forded crossing. The crossing would be constructed in accordance with the British Horse Society standards for Fords.
- 2.6 A further NMA application (NM/9) 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. Approval was given in September 2014 for the temporary use of the BHLR between Belle Hill and Elva Way for the duration of the works to demolish and reconstruct the Ninfield Road overbridge.
- 2.7 Another further Non-Material Amendment application (NM/10) was validated on 17 July 2015. NMA application NM/10 seeks to alter the wording to planning conditions 8 and 15 to allow the use of the BHLR by the public prior to completion of the Greenway and the landscaping works. It is likely that this application will be reported to Planning Committee on 19 August 2015.
- 2.8 Progress of works on site include:
- London Road works and public realm area
  - Completion of Chapel Path Underpass
  - Opening of Woodsgate Park Overbridge
  - Refurbishment of Glovers Farm Bridge
  - Earthworks on certain fill areas which will support the road
  - Commencement of some of the rural bridges
  - Crowhurst Road realignment works have been completed and the realigned road is now open to the public

- Further construction of the bridge over the railway
- Queensway junction works

- 2.9 Archaeological investigations have been carried out in advance of construction. Finds have demonstrated occupation of the landscape since the last Ice Age. Over 200 lithic artefact scatter sites, comprising in the region of 500,000 struck flints have been identified and excavated, with evidence for at least one structure as well as pits and hearths showing how hunter-gatherers lived in the area for over six thousand years as the climate and environment changed. The investigations have also revealed important evidence for Neolithic and Bronze Age settlement and later farming, Romano-British occupation from the 1<sup>st</sup> Century AD, including iron working sites and evidence for Saxon settlement and farming from the 6<sup>th</sup> Century AD at Upper Wilting Farm.
- 2.10 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 approval has led to the withdrawal in September 2014 of Non-Material Amendment application NM/8 which proposed changes to incorporate a roundabout at this location. The Gateway Road is intended to serve new commercial development which will regenerate the area. Construction has commenced.
- 2.11 In conclusion, significant progress has been made in the construction of the Link Road. Over 85% of the main works through to road opening have now been completed. The carriageway construction should be completed and open to traffic in the Autumn 2015.

### **3 Monitoring Report**

- 3.1 The Annual Report from the Head of Planning and Environment 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 Environment 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 was on site. These included noise monitoring during construction work, confirmation of tree protection measures, and completed travel plans. The mechanism for this was 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 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 Construction Environmental Management Plan. It should be noted that a revised estimate of emissions of CO<sub>2</sub>e from construction activities was included in the CEMP compared to the Environmental Statement and Addendum Environmental Statement. This was 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 CO<sub>2</sub>e has been submitted and monthly monitoring reports prepared. After initial set up implications, current CO<sub>2</sub>e 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 CO<sub>2</sub>e emissions as part of the construction of the BHLR have continually been reported to Head of Planning and Environment on a monthly basis. Actual output has mostly been below the target forecast although in some months the target has been exceeded. The S106 Undertaking requires the submission, within 1 month of the completion of the construction of the BHLR, of a report which details the final outcome of the CO<sub>2</sub>e emissions from construction. Any net increase shall become a commitment to be catered for by the County Council under the ESCC climate change strategy.
- 3.7 The main works to exclude and relocate badgers away from existing setts had largely been completed earlier. In March 2015, badgers were moved into new purpose built setts created along the route of the BHLR. The new setts were constructed using timber for the chambers and large plastic drainage pipes for the tunnels. Badger proof fencing is being provided to ensure that the badgers will be kept away from traffic on the BHLR. Evidence has been provided which demonstrates that badgers are using the new tunnels provided under the urban section of the road which is

temporarily being used by traffic diverting from Ninfield Road because of the bridge reconstruction. Reptiles were excluded from construction areas. New ponds are being constructed. Over 300 dormouse nest boxes have been installed.

### **The Operational Environmental Management Plan**

- 3.8 The S106 Legal Undertaking related to the planning permission RR/2474/CC (EIA) 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 formal details have yet been submitted.

### **The Complementary Highway Improvement Plan**

- 3.9 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.
- 3.10 It is recognised that some of the proposed measures in the CHIP were at a feasibility stage and would 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 progress and implementation of the CHIP. Any changes to the CHIP to mitigate the effects of traffic impacts from the Development (BHLR) would need approval.
- 3.11 The CHIP was approved on 5 April 2013. 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 which is virtually complete. Construction of the A259 Bus Priority Measures is planned to commence shortly after the Link Road opens.
- 3.12 Consultants have been working on a Ridge Corridor Movement and Access Study. Initial findings of the Study are now available. Following the opening of the BHLR, traffic levels are predicted to increase along The Ridge. The CHIP is to provide mitigation of the impacts of these forecast increases. Specifically, improvements are going to be introduced to the existing mini-roundabouts at the junctions between The Ridge and Queensway, and, The Ridge and Harrow Lane. Advanced site clearance and drainage works have been completed at the Queensway junction. Construction of the roundabout commenced on 22 June 2015 and should be completed by August this year. Construction of the Harrow Lane roundabout commenced on 18 May 2015 and is now largely complete. The Study also recommends that the existing zebra crossing outside Sandown School be upgraded to a puffin crossing as part of the package of measures to improve

conditions for all users of the Ridge. This will be taken forward as part of a prioritisation exercise.

- 3.13 The submitted details for the CHIP as part of the S106 Legal Undertaking will be updated in due course.

### **The Compensatory Habitat Scheme**

- 3.14 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.
- 3.15 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. Significant planting has taken place and photos of this are attached to this Annual Report.
- 3.16 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.
- 3.17 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).
- 3.18 The details that have been provided for the CHS, have been the subject of careful scrutiny by East Sussex County Council's Environment 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.
- 3.19 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.

- 3.20 Accordingly the CHS was approved on 9 April 2013. In addition, a pilot scheme is in hand for the Brede Valley Farm Habitat Project which has significant funds available for a land management programme.

### **Adams Farm Barn**

- 3.21 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 and Environment. BHLR cannot be opened for public use until Adams Farm Barn has been reconstructed in accordance with any approved plans.
- 3.22 The plans were approved by Head of Planning and Environment, 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 reconstruction is now complete and photos of the relocated barn are enclosed at the end of this Annual Report.

### **The Monitoring Scheme**

- 3.23 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.
- 3.24 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.
- 3.25 In total, about 75 complaints have been submitted by residents to the Link Road Contact Centre. Some have been more formally investigated by the County Council's Planning Policy and Development Management Team (see paragraph 3.26 below). There have been over 85 compliments received by the Contact Centre.
- 3.26 In terms of planning enforcement, there have been three separate enforcement investigations reported to Planning Committee in the last year. These cover where the County Planning Authority has investigated complaints relating to mud/dust on the highway, dusty conditions within the site, unauthorised out of hours working and vehicle routeing. The contractor has reviewed operations in relation to each complaint and subsequent site visits by officers from the Planning Policy and Development Management Team have identified that changes and improvements have been made in relation to these matters. No formal enforcement action has been necessary.

## **Other Matters**

- 3.27 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. Construction of the BHLR is continuing at length and the full main works is progressing such that the main carriageway is likely to be open to traffic in Autumn 2015.

**Tony Cook**  
**Head of Planning and Environment**  
**East Sussex County Council**

**APPENDIX – PHOTOS OF ADDITIONAL PLANTING AT MARLINE VALLEY WOODS SSSI AND ADAMS FARM BARN**

**A) Additional planting near Marline Valley Woods SSSI**





**B) Adams Farm Barn including bat provision**







