

**LONDON BOROUGH OF BRENT
HIGHWAYS COMMITTEE 10 February 2004
FROM THE DIRECTOR OF ENVIRONMENT
REPORT NO: /04**

For Action

Name of Wards Affected

Tokynghon, Stonebridge

REPORT TITLE: STADIUM ACCESS CORRIDOR PROJECT

1. Summary

This report summarises the progress made to date in relation to Section 1 of the Stadium Access Corridor (SAC) project and the associated application for planning permission and promotion of a Compulsory Purchase Order (CPO). The report seeks authorisation for the Head of Transportation Services to promote orders for the diversion to the public footpath in the River Brent Open Space, to rationalise the existing highways affected by the SAC scheme and to close and alter certain private means of access along the route of the SAC.

2. Recommendations

- 2.1 That the Committee notes the progress made on the development of the Stadium Access Corridor project.
- 2.2 That the Director of Transportation Services be authorised to promote orders for the stopping up and/or diversion of highways required for the Stadium Access Corridor Section 1 to be carried out.
- 2.3 That the Director of Transportation Services be authorised to promote Orders under Section 248 of the Town and Country Planning Act 1990 and (if required) Section 125 of the Highways Act 1980 required for any or all of the following:
 - (a) the stopping up of highways and the diversion of highways affected by the Stadium Access Corridor Section 1;
 - (b) the stopping up of private means of access to premises adjoining or adjacent to the Stadium Access Corridor Section 1;
 - (c) the provision of new means of access to premises from the Stadium Access Corridor Section 1 or highways connecting to the Stadium Access Corridor.

- 2.4 That the Director of Transportation Services be authorised to enter into discussions with affected parties to seek to agree to the stopping up of private accesses along the route of the Stadium Access Corridor Section 1 pursuant to the power available to the Council under Section 127 of the Highways Act 1980;
- 2.5 That the Director of Transportation Services be authorised to consider the provision of new means of access to the Stadium Access Corridor Section 1 under the powers available to the Council pursuant to Section 129 of the Highways Act 1980.
- 2.6 That the availability of compensation to persons affected by the closure of accesses pursuant to the proposed Orders is noted.
- 2.7 That the Director Transportation Services in consultation with the Borough Solicitor be authorised to take all necessary steps in respect of the Orders including but not limited to
- (i) the publication of requisite notices
 - (ii) consideration of any objections and representations received
 - (iii) if necessary the instruction of Counsel and experts to provide evidence and prepare the case for the Orders in any inquiry into the making of the Orders which may be arranged
 - (iv) making arrangements for any inquiry into the Orders (if such inquiry is necessary
 - (v) the submission of the Orders to the Mayor of London
 - (vi) making the order if (a) no objections are received or (b) the objections which are received are in his opinion not substantive and the Mayor of London decides that in the special circumstances of the case a public inquiry is unnecessary. 2.8 Unless paragraph 2.7 (vi) above applies, to report back to the Committee for the making of the Orders pursuant to this report
- 2.8 Upon the making of such Orders the Director of Transportation be authorised to take all necessary steps to carry out the actions and works authorised by the Orders made.

Deleted:

3. Financial Implications

- 3.1 The estimated cost of construction of Section 1 of the SAC is currently £6.634m. This includes a budget for the estimated land acquisition costs. Full details of the financial implications are set out in the report to the Executive of 7 January, a copy of which is appended to this report at Appendix 1.

- 3.2 The proposed order under Section 248 of the 1990 Act, by including the power to stop up private means of access to the highway network, could give rise to claims for compensation. Such claims are assessed by reference to the depreciation in value of the property affected as a result of the closure of the access or as a result of any disturbance to the property. It is anticipated that there will be little further compensation due as a result of the Order being made as suggested by this report. S126 (4) of the Highways Act 1980 expressly excludes compensation as a result of any other enactment if compensation is claimed for the closing of the private access.
- 3.3 Most accesses along the route of Great Central Way will not be closed as a result of the SAC scheme being implemented. Of those accesses affected by the scheme and requiring alteration, only a few accesses would be closed without a direct replacement. These accesses are on to Great Central Way from Riverside House. A new or revised access to Fourth Way will be provided from that site.
- 3.4 It is not anticipated the revised access arrangements resulting from the proposed order will of themselves result in significantly increased compensation.
- 3.5 The Council will be required to pay for the costs of an inquiry into the proposed Orders. This will include the costs of the Inspector appointed to the inquiry, if one is required. The Council will also be responsible for the costs of preparing and making its case for the Orders.

4. Staffing Implications

- 4.1 The project owner for the transportation and highways proposals within the Destination Wembley SRB Programme is the Council's Transportation Services Unit. The Director of Transportation is himself overseeing the project and liaising with the Council's appointed agents.
- 4.2 The work proposed is in accordance with the highways and transportation study prepared in 1997 by Scott Wilson Kirkpatrick under the project management of JMP Consultants Limited, in consultation with the Transportation Services Unit. These companies have been working on the SRB infrastructure scheme since 1997 and will continue to progress the Scheme on the Council's behalf.
- 4.3 The CPO and the required highway orders will be progressed by the existing team of the Council's officers instructed for both the EAC and SAC in relation to the land acquisition and engineering processes.
- 4.4 The order making authority for the orders to be made is the Council itself. It is anticipated that the Council's legal services will advise the Council on the order making process. Officers from Planning Services

and officers responsible for highways may assist the Council in its capacity as order making authority.

5. Environmental Implications

- 5.1 An environmental report for the SAC Section 1 has been prepared by the Council's external consultants. A copy is appended to this report. The report concludes that there will be no significant environmental impacts resulting from the SAC scheme. The environmental impacts were reported on to the Executive at the meeting on 7 January 2004. No further environmental impacts should result from the making of the Orders proposed in this report.

Diversity

- 5.2 The proposals in this report have been subject to screening and officers believe there are no diversity implications.

6. Legal Implications

- 6.1 The Council will need to comply with the procedure for making the proposed Orders, principally set out in the Town and Country Planning Act 1990. The Council must also be mindful at all times of its role as order making authority despite it being the promoter of the SAC scheme.
- 6.2 The Order making power has been with the Council since the coming into force of the Greater London Authority Act 1999. The procedure is subject to independent review if an inquiry is called, as the appointed inspector will be from the Planning Inspectorate. Further independent scrutiny is provided by the role of the Mayor of London in the process.
- 6.3 The proposals for the orders must be notified to relevant persons and publicised. Any person may object to the proposal. If an objection is made and not withdrawn, a public local inquiry will be held unless the Mayor of London directs that there are special circumstances meaning the holding of an inquiry is unnecessary. Any Inquiry will be conducted by an Inspector from the Planning Inspectorate who will hear evidence from the Council as promoter and from any persons objecting to the orders that wish to give evidence.
- 6.4 The Inspector would then submit a report on the Public Inquiry and his/her recommendations to the Council. The Council must then decide whether or not to make the orders. Before making the Orders, the Council must first submit the orders to the Mayor of London for him to consider whether the Order should be made. The Orders cannot be made until planning permission for the SAC scheme has been issued.

- 6.5 The orders may only be made on the basis of grounds specified in the relevant sections of the Acts. It will be for the Council as order making authority to consider these grounds objectively, with the assistance of the Inspector's report and subject to the scrutiny of the Mayor of London.
- 6.6 Members must bear the implication of the Human Rights Act 1998 in mind when making their decision. The Act came into force on 2 October 2000. The Act effectively incorporates the European Convention on Human Rights into UK law and requires all public authorities to have regard to Convention Rights. In making decisions Members need to have regard to the Convention. The rights which are of most relevance to local authorities making orders it itself promotes is Article 6 – the right to a fair hearing. The Inspector appointed to any Inquiry will be independent of the Council. The decision of the Council will be subject to scrutiny by the Mayor and also the scrutiny of the Court on the grounds specified in the Town and Country Planning Act.
- 6.7 A Convention right that is also of significance is that contained in Article 1 of Protocol 1 (peaceful enjoyment of possessions). Article 1 of Protocol 1 provides that no-one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law, although it is qualified to the effect that it should not in any way impair the right of a state to enforce such laws as it deems necessary to control the uses of property in accordance with the general interest.
- 6.8 In determining the level of permissible interference with enjoyment, the courts have held that any interference must achieve a fair balance between the general interests of the community and the protection of the rights of individuals. There must be reasonable proportionality between the means employed and the aim pursued. The availability of compensation to affected persons is relevant in assessing whether a fair balance has been struck. In reaching their decision when the Order is being considered, Members will need to consider the extent to which the decision may impact upon the Human Rights of affected occupiers and to balance these against the overall benefits to the community which the overall SAC scheme would bring. Members will wish to be satisfied that interference with the right under Article 1 of Protocol 1 is justified in all the circumstances and that a fair balance would be struck in the present case between the protection of the rights of individuals and the public interest. The provision of replacement highways and accesses for those proposed to be stopped up as a result of the Order making process will also be relevant in this regard, as will the availability of compensation to affected parties in appropriate circumstances.
- 6.9 Because the application for planning permission for the SAC was made by the Council, it is able to rely on Section 253 of the Town and Country Planning Act 1990 to commence the process before the relevant

planning permission is issued. The issue of planning permission is a pre-requisite for actually making the Order.

7. Detail

- 7.1 The Stadium Access Corridor (SAC) project is a key element of the highway improvements intended to be implemented to improve accessibility to the Wembley Park Estate, especially during major events at the new English National Stadium. The implementation of the project is one of the principal aims of the transportation and infrastructure elements of the Destination Wembley Programme. Full details of the scheme are set out in the report to the Executive of 7 January 2004, a copy of which is appended hereto at Appendix 1.
- 7.2 The CPO proposed in that report was approved by members and the CPO made on 13 January 2004. The period for objections to the Order to be submitted closed on 9 February.
- 7.3 It is expected the application for planning permission will be reported to Planning Committee on 10 March 2004.
- 7.4 The route of Section 1 of the SAC is primarily along the existing Great Central Way, but runs to the north of the existing alignment towards the western end of the scheme. Riverside House and its associated outbuildings at the corner of Fourth Way and Great Central Way are expected to be totally demolished to allow the scheme to progress. ***Attached at Appendix 2 is the scheme plan showing the proposed works.***
- 7.5 The Works will affect the existing footpath leading from Great Central Way to the River Brent Open Space. This footpath has been closed in part (to the north as a safety measure until relatively recently. The path running south under Great Central Way to the open space on the south side of the London – High Wycombe Railway has remained open however. Your officers are advised that it should be regarded as a highway, albeit one restricted for use on foot only. This means the proposed construction of a supporting embankment over the route of the existing path would not be permissible unless the status of the highway is removed from the relevant path. ***The plan at appendix 2 shows (coloured yellow) the realignment of the path to run parallel to the new northern footway/cycleway parallel to Great Central Way before joining the northern footway/cycleway a few metres to the east of the exiting junction between the path and the footway/cycleway.***
- 7.6 To secure the altered route of the path it is proposed that the Director of Transportation Services will seek an order to provide the new path with the appropriate legal status and to remove the highway that is to be obstructed by the retaining wall.

- 7.7 The Director of Transportation Services is also considering stopping up of the part of the highways of Fourth Way and South Way that enter the route of the intended highway. The areas will be immediately re-dedicated by the Council to form part of the highway of the SAC. This process should resolve any residual legal issues regarding the status of the routes of Fourth Way and South Way in this area.
- 7.8 The SAC requires the alteration to various frontages to the existing Great Central Way. In relation to the access to the McArdle and DB Autos buildings the access to the existing highway needs to be relocated to the north and the existing access narrowed slightly. The most appropriate way of doing this will be to close the existing access and re-open it further from the centre line of the carriageway. Sufficient land is in the CPO to allow for this.
- 7.9 Riverside House on the corner of Fourth Way and Great Central Way will be demolished as a result of the SAC scheme. There will remain an area of yard bordering Great Central Way and Fourth Way which is not included in the CPO. The access to that yard from Great Central Way will have part of the new carriageway constructed over it. It is intended that some accesses be stopped up without a replacement because of the impact of the SAC works on Riverside House..
- 7.10 One other vehicular access to Riverside House is from Fourth Way. The proposed orders would close that access but re-open it in a slightly different position. The formal process of closure and re-opening is intended to be carried out to deal with any residual legal issues arising from the construction process.
- 7.11 It is currently intended that all other accesses on the route of the highway will be re-provided, albeit in some cases slightly set back from their existing point of accessing the highway. As the alignment is not to be changed, then it is not currently envisaged that those means of access will be formally stopped up and re-opened by an order.
- 7.12 The route of Great Central Way itself will be moved to the north of the existing alignment, to meet the line of South Way more directly. This will be carried out under the Council's general powers under the Highways Act and in pursuance of the authority provided by the planning permission. As there could be residual issues regarding the status of the area of highway to the south and west of Riverside House your officers will consider further if closing the existing highway and rededicating it is required. Any closure would not be intended to take place until the diverted highway is available to traffic, although the use of traffic regulation powers to temporarily control the use of the highway during the scheme construction may be necessary.
- 7.13 The Order making process is set out in 6.2 to 6.5 above. The process is similar for all the proposed orders.

Consultations with Affected Parties

- 7.14 The Council's Parks Services are being consulted on the proposed effects on the River Brent open space.
- 7.15 Officers and the Council's representatives have met with most of the parties affected by the proposed land acquisition and the process of negotiation is ongoing. Agreement to new means of access to premises will also be sought with the affected parties. The resolution sought from members will allow the Director of Transportation Services to negotiate revision to the existing accesses and such negotiations will be pursued with the view of avoiding the need for the accesses to be dealt with by way of formal orders. Your officers believe that in the time available such agreement with all parties cannot be guaranteed. To ensure the timetable for the SAC is not prejudiced the authority and certainty provided by the Orders officers seek to promote is required.

8. Background Information

<u>Details</u>	<u>File Reference</u>
Wembley Park Master Plan, Foster & Partners 1996	
Environment, Regeneration and Property and Resources Committee Reports (30th April 1996)	
Policy and Resources Committee 13th January 1997 and 21 October 1997	
Environment Committee 13th February 1997 11 March 1997 7th July 1997 29 July 1998 and 7 July 1999	
Transportation Sub-Committee Report 22nd July 1997 and 16th September 1997	
Wembley Park SRB Public Transport Demand Study: Final Report 1997	
Wembley Park SRB Highways and Transportation Study: Final Report 1997, SWK	
Report to Executive by Director of Environment 13 October 2003	

	Report to Planning Committee 8 February 2001 re application 00/2132	
	Secretary of State's decision letter 30.11.99 and Inspectors Report following Wembley EAC CPO inquiry	
	Report to Executive 7 January 2004 London Borough Of Brent (Wembley Park Stadium Access Corridor) (No1) Compulsory Purchase Order – Order, Order Map and Statement of Reasons	
	Any person wishing to inspect the above papers should contact: Phil Rankmore Director of Transportation Service Unit Brent House 349-357 High Road Wembley HA9 6BZ Tel: 020 8937 5128	

APPENDIX 1
Report to Executive 7.1.04

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APPENDIX 2
SCHEME PLAN FOR PROPOSED WORKS