

**A28 Sturry Link Road**

**Kent County Council (KCC) Compulsory Purchase Order (CPO) and Side Road Order (SRO)**

**Public Inquiry 1 October 2024**

**SUPPLEMENTARY PROOF OF EVIDENCE OF RICHARD SHELTON IN RESPONSE TO THE PROOF OF EVIDENCE OF MR HORSHAM**

**Introduction**

1. I am a Project Manager within the KCC Major Capital Programme team and have been the project manager for the Sturry Link Road scheme since 2015. I refer to and rely upon my main proof of evidence at section 1 for further details of my credentials and experience.
2. I have produced this supplementary evidence to assist the Inspector and save time at the Inquiry in relation to the objection of Mr Horsham. In the text that follows, I have responded to the content of Mr Horsham's proof of evidence and I set out the most up to date position regarding the plots of land sought to be acquired from the Horshams, or in respect of which new rights are sought through the CPO, as well as the position in respect of the Side Roads Order to the extent that it affects the Horshams land.
3. Although Mr Horsham is the registered owner of plots within the CPO and the objection was received from Mr Horsham, past correspondence and meetings have been held with both Mr and Mrs Horsham and as such the objection is regarded as being from both and the text that follows refers where appropriate to the 'Horshams.'
4. I note that the Inspector's pre-inquiry note requests statements of common ground or joint position statements to be submitted by 20 September in cases where the issues have been narrowed or agreement is reached with objectors.
5. Following receipt of the pre-inquiry note and in accordance with the Council's (KCC) approach to seek to engage constructively, KCC wrote to the Horshams on 14 September (see letter appended to this Statement) proposing a meeting during week commencing 16 September in order to try to narrow issues and draft a statement of common ground/position statement, or resolve the objection. Mr Horsham only communicates with KCC by post and KCC has not received a response to the letter seeking a meeting.
6. In the case of the objection from the Horshams, KCC's proofs of evidence were completed prior to a letter being sent to the Horshams on 5 September (see letter appended to this Statement). The letter sought to address concerns raised by the Horshams in a meeting that took place between the Horshams and KCC on 9 August. Consideration of the issues raised in the meeting required consultation with KCC's consultant and contractor, and with holiday leave, it was only possible to respond to the Horshams on 5 September. My proof of evidence was therefore unable to take account of the content of the letter.
7. Many of the issues raised in Mr Horsham's proof of evidence relate to matters discussed in the meeting of 9 August, which KCC has now responded to through its letter. In

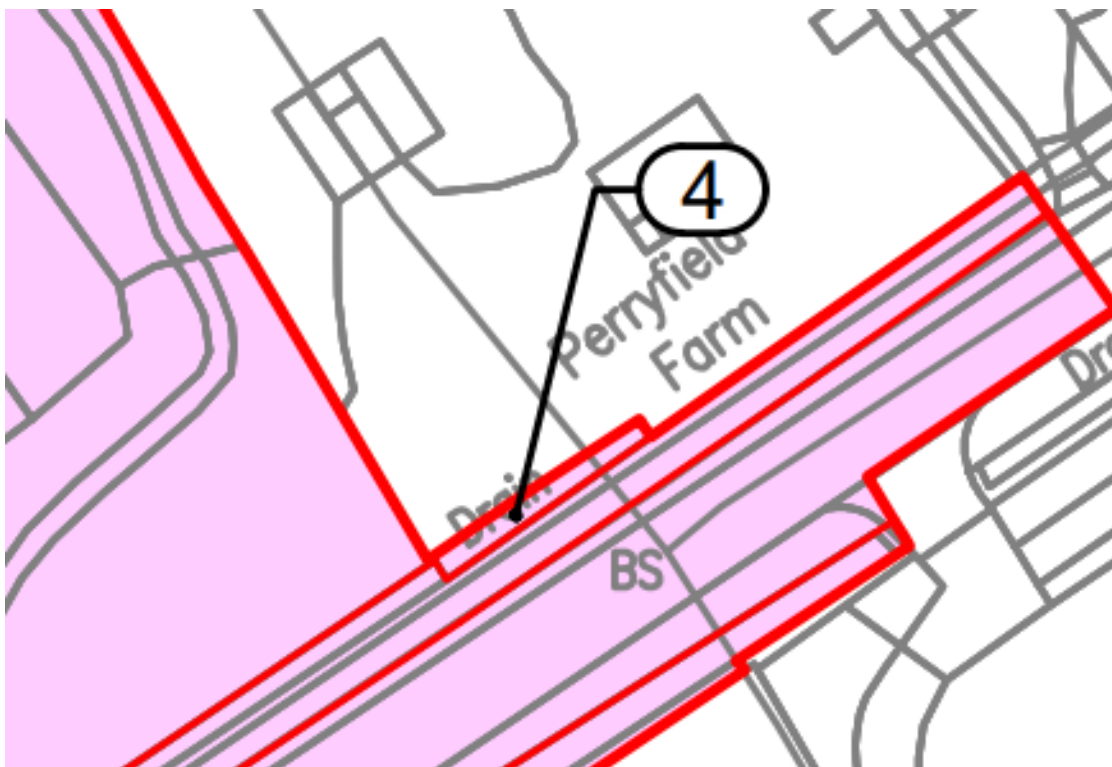
the light of this, I consider that providing an update in this supplementary evidence, albeit not on a joint basis, will assist the Inspector in understanding the most up-to-date position regarding the CPO and SRO insofar as they impact on the Horshams' land.

8. KCC will continue to seek to engage with the Horshams up to and during the Inquiry with the aim of narrowing issues or resolving the objection.

9. The CPO plots in the ownership of the Horshams are Plots 4, 11, 12 and 15. I note that Plot 3 is unregistered/unknown ownership and Mr Horsham is shown as one of several reputed owners although I do not understand that Mr Horsham asserts that this falls within his title. This supplementary proof of evidence deals with each of plots 4, 11, 12 and 15 in turn and also covers the SRO insofar as it affects the Horshams' land under the section on Plot 4 below.

#### Plot 4

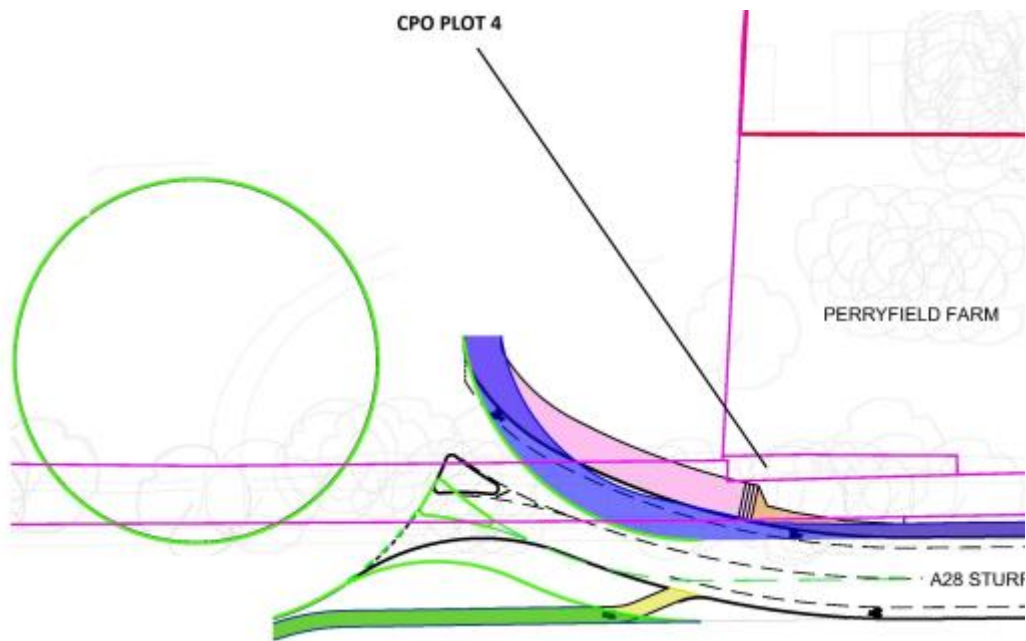
Fig. 1



10. This is a narrow strip of land in the south west corner of the frontage to the Horshams' property – see Fig. 2 above. The made CPO sought the acquisition of title on the basis that the land was required for the A228 approach to the Link Road roundabout and for the surface water outfall into Sturry Dyke, and the removal of the existing private means of access as indicated in the SRO. During previous discussions with the Horshams, KCC reconsidered the need for acquisition of title and agreed to amend the CPO to show the acquisition of rights instead. This is shown in the draft revised CPO Plan and Schedules at Appendices E and F to my main proof of evidence.

11. Mr Horsham's POE challenges the need for rights over Plot 4 and says that they wish to have exclusive control over the frontage of their property.

**Fig. 2**



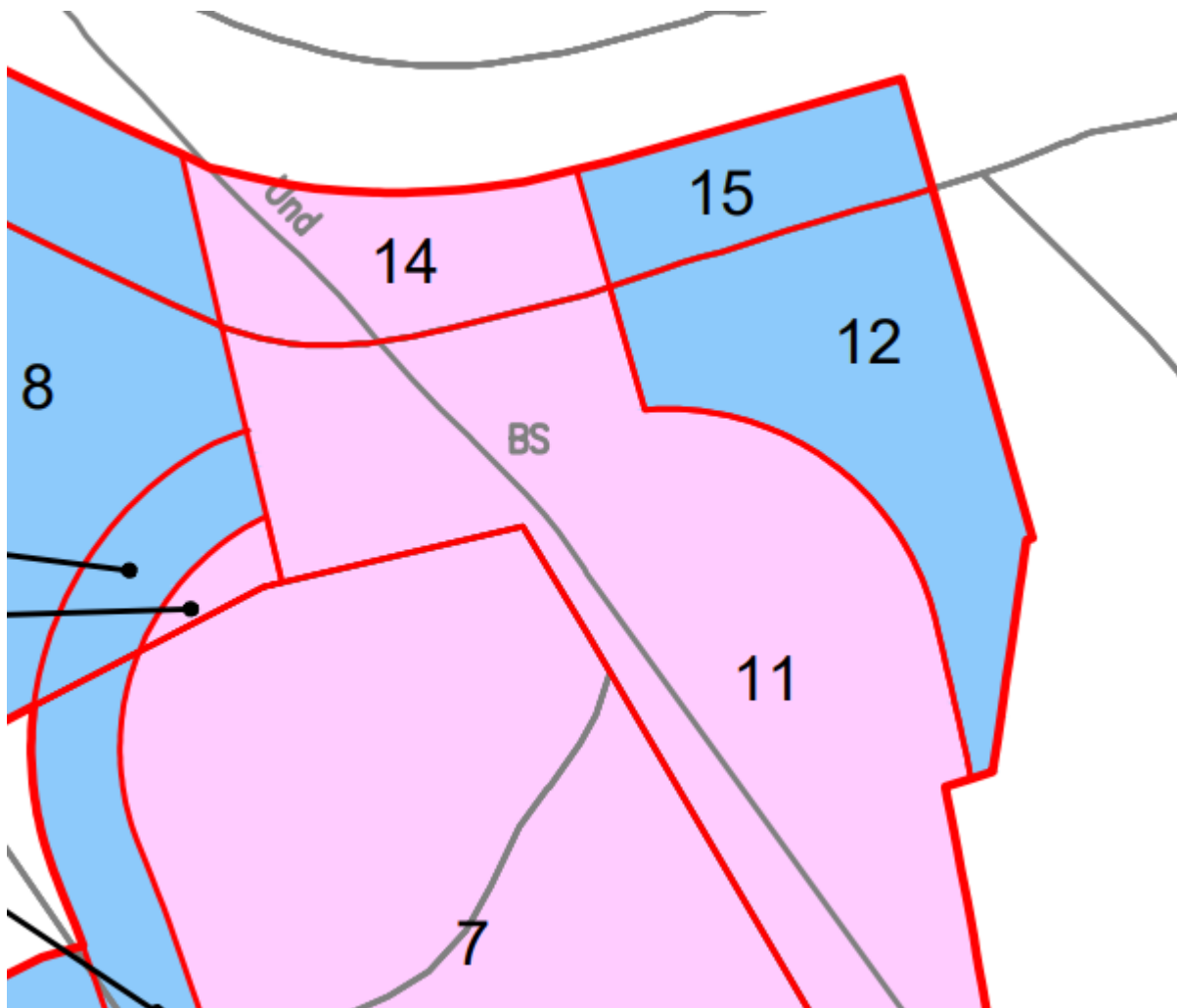
12. KCC, in its letter dated 5 September, indicated that it had looked further at the design of the roundabout from Sturry Road onto the Link Road and by slightly amending the curvature of the Sturry Road exit/approach, KCC is able to deliver the Link Road without needing Plot 4 at all – see Fig. 2 above. It is therefore proposed by the Council that the CPO Map and Schedule be modified to delete Plot 4. This is what the Horshams have asked for.

13. As the Horshams do not want any disturbance or interference with their frontage, the removal of Plot 4 is also predicated on KCC not needing temporary access to physically remove the driveway where it is culverted over Sturry Dyke. In KCC's letter of 5 September, it explained that the benefit of leaving the existing access physically in place is that the Horshams have previously indicated the need to wheel waste bins out to the main road for collection. Leaving the access would mean that it would not be necessary for KCC to modify the existing pedestrian steps to provide a ramp.

14. In KCC's letter, it suggested that if the driveway that is indicated as being stopped up under the made SRO with the new access being provided from the Link Road roundabout, was not physically being removed then it could remain as a secondary vehicular access to the property. KCC has reflected on this suggestion and considers that the existing vehicular access should be stopped up as proposed in the SRO. While the Horshams required the new access being provided from the roundabout, KCC has concerns about the use of the existing access, even if limited to left turn in movements, because of its proximity to the roundabout.

## Plot 11

**Fig. 3**



15. This is land on the western side of the rear of the property and up to the bank of the river – see Fig. 3 above. The made CPO sought the acquisition of title. The land is required for the embankment supporting the approach to the viaduct, the foundations of the viaduct, the underside of the viaduct and associated surface water drainage and outfalls to the river.

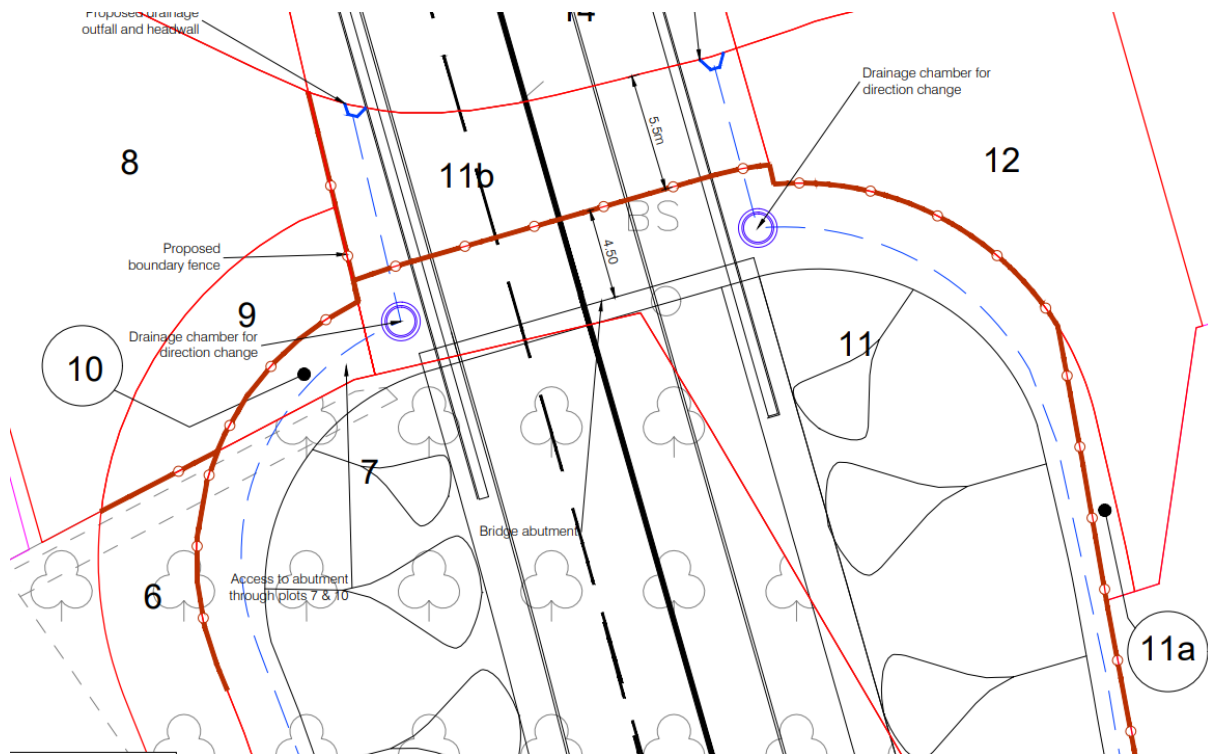
16. KCC sought to acquire title in the made CPO to the land under the viaduct for the construction of the works and so that it had full control to access the viaduct abutment and bearings and prevent any prejudicial activities on the land that might be a risk to the structure. The viaduct headroom over this first span is low and KCC also considered that beneficial use of the land by the Horshams was unlikely.

17. Mr Horsham's POE challenges the need for KCC to take title to the land under the viaduct as they place a high personal value on having access to the full extent of their river frontage and the adjoining land. KCC has considered whether it is able to propose modifications to the CPO in order to seek to address, insofar as possible, the Horshams' concerns. KCC considers that its objectives can still be met by a combination of taking a reduced area of title together with permanent rights.

18. KCC, in its letter dated 5 September, has made two proposals to the Horshams regarding the land under the viaduct. The overall width of the land between the viaduct abutment and the river bank is 10m.

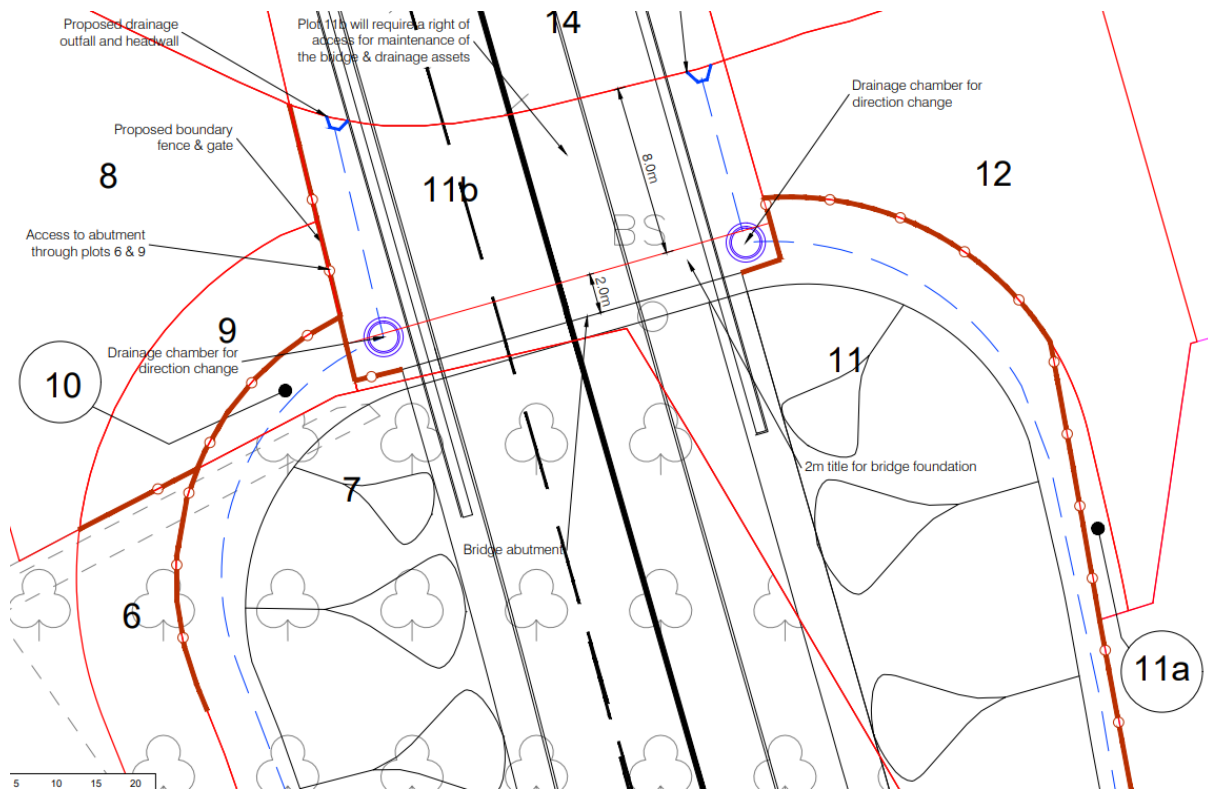
19. Option 1 – see Fig. 4 below - is that KCC takes title to and fences a strip 4.5m wide from the face of the abutment to provide sufficient room for the abutment foundations, drainage chambers and room for a maintenance vehicle. That would leave a strip 5.5m wide to the river bank over which KCC would need to acquire permanent rights of access for inspection and maintenance of the viaduct, and for the construction of surface water pipes and tail walls, and their inspection, maintenance and renewal.

**Fig. 4 - Option 1**



20. Option 2 – see Fig. 5 below - is that KCC takes title to a 2m strip from the face of the abutment to include the land occupied by the abutment foundations. This is the minimum width KCC can accommodate and is based on the evolving detailed design. Mr Horsham's POE quotes 1m based on Fig I within the POE, but that was an earlier indicative outline design and does not reflect the strip now required as an absolute minimum. The 2m strip would leave a strip 8.0m wide to the river bank over which KCC would need to acquire permanent rights for inspection and maintenance of the viaduct, and for the construction of surface water chambers, pipes and tail walls, and their inspection, maintenance and renewal.

**Fig. 5 – Option 2**



21. The whole area under the viaduct between the face of the abutment and the river could remain open with the fencing on either side of the scheme connected into the corners of the abutment. The boundary of KCC's title could be simply indicated by marker posts at each side.

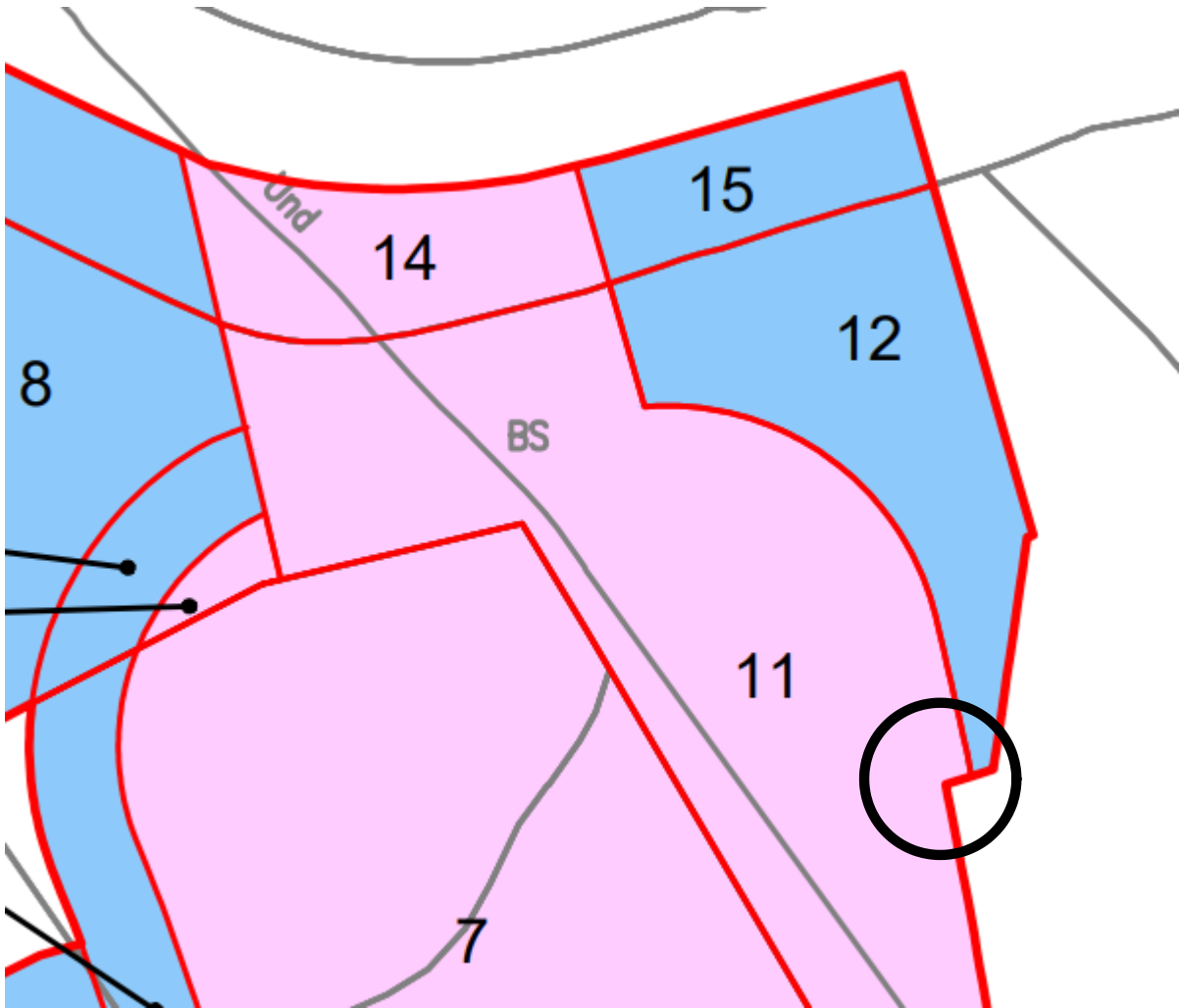
22.. The viaduct will be an important structure carrying a main road. Structural inspections will be carried out annually and no major works such as the replacement of bearings are anticipated for many years. The area will include surface water drainage and that will require inspection and maintenance. Advance notice can be given to the Horshams when access is required for inspections and maintenance. However, emergencies can occur that require an immediate response and possible repair works and for that reason KCC does require a permanent right of access.

23. KCC is willing to modify the CPO to reflect either option but it considers that Option 2 best addresses the Horshams concerns as articulated in their POE and aligns with what the Horshams have asked for.

24. With either option, the impact on the made CPO would be to reduce the extent of title to be acquired under Plot 11. The reduced area of title to be acquired under the viaduct would become a new Plot 11b for the acquisition of permanent rights.

25. As a separate point in relation to Plot 11, during earlier discussions, the Horshams commented on the step in the acquisition boundary of Plot 11 in the made CPO as shown by the black circle – see Fig. 6 below. KCC agreed that having a step in the fence line on their property was not ideal and that having a continuous fence was to be preferred.

**Fig. 6**



26. In addition to land required for the embankment, KCC also requires land along the toe of the embankment to provide a filter drain to avoid surface water from the embankment slope running on to the Horshams retained land.

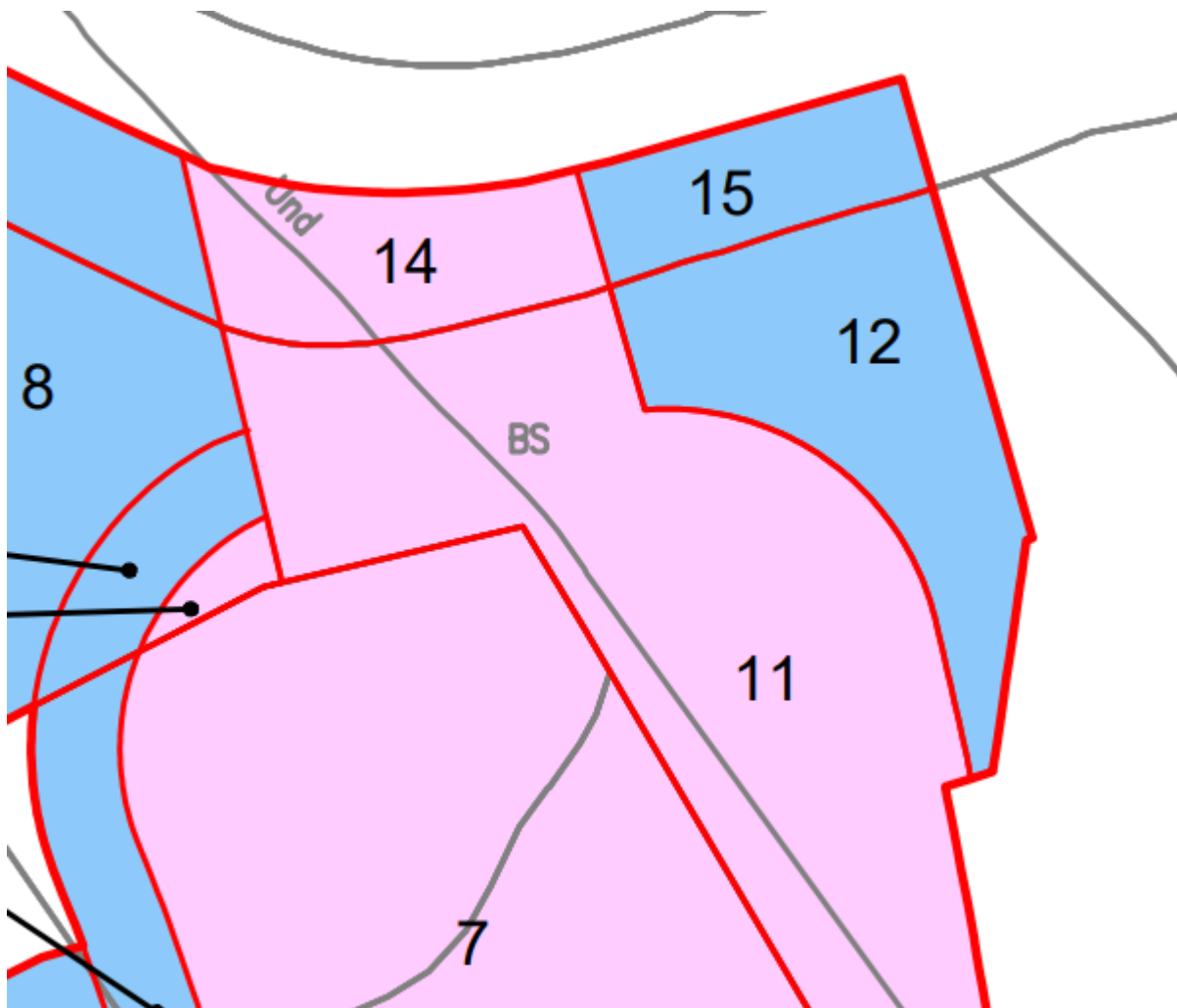
27. KCC has been able to modify the drainage aspects so that a continuous fence (acquisition boundary) line can be provided.

28. The effect on the made CPO would be to further reduce the extent of title to be acquired under Plot 11. The reduced area of title to be acquired would become a new Plot 11a to adjoin Plot 12 for the acquisition of temporary rights – see either of the option Figs 5 or 6 above.

#### Plot 12

Fig. 7





29. Plot 12 is required as temporary working space for the construction of the Link Road and in particular the construction of the embankment and viaduct and room to swing the viaduct beams in to position – see Fig. 7 above. The made CPO sought the acquisition of rights.

30. Mr Horsham’s POE challenges the need for KCC to take permanent rights over the land. He states that he does not oppose construction of the viaduct, but objects to “the permanent and restrictive rights that KCC demand thereafter” on Plot 12. However, the rights in the Schedule to the CPO under Plot 12 are restricted to the construction period and refer to *‘All rights necessary for the acquiring authority to use the land as a temporary working area for the construction of the works....’*. KCC’s need for use of the land will be for approximately 2 years. No rights are sought for the use of the land for any period other than the construction phase.

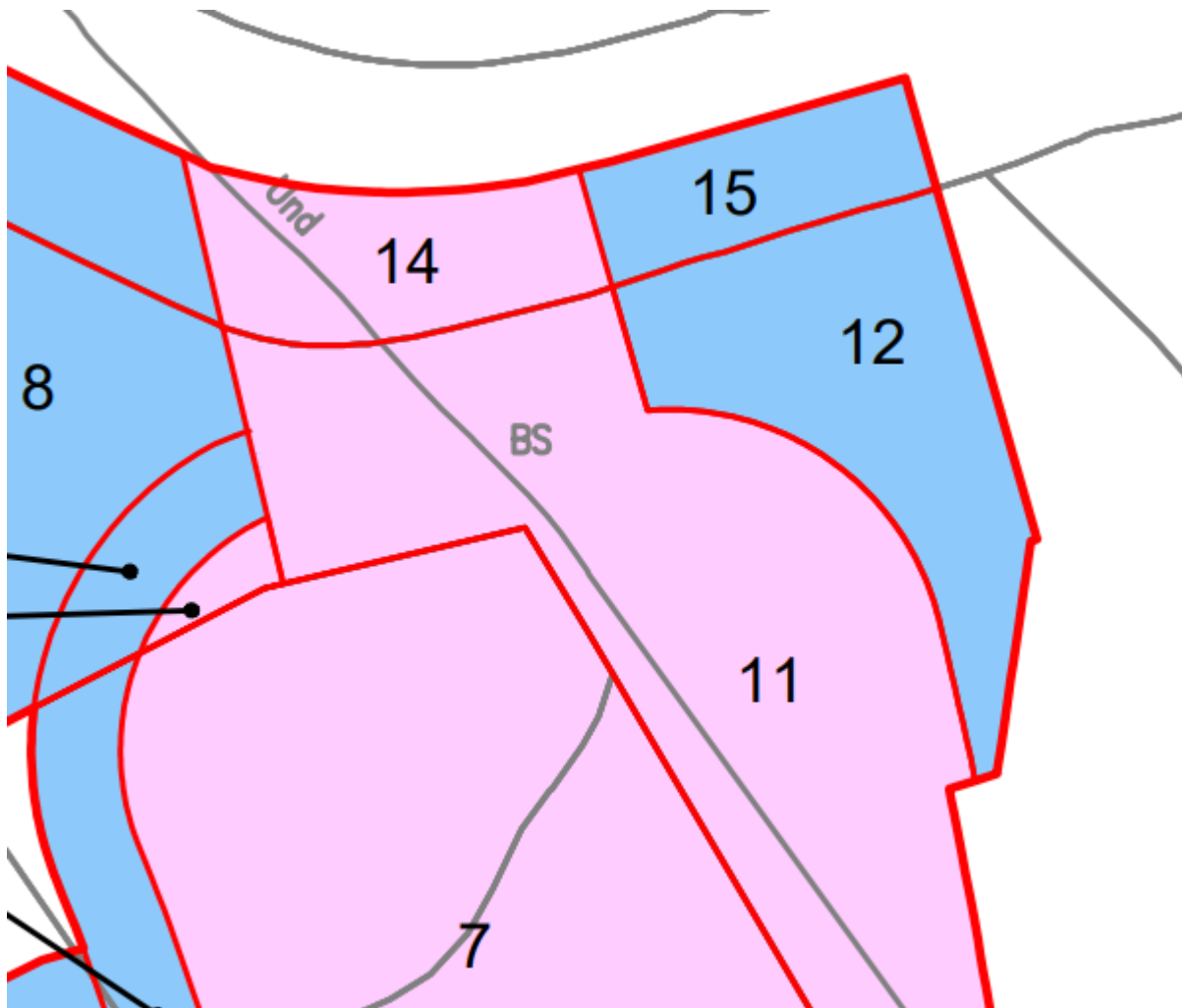
31. The Horshams also challenge why Plot 12 is required if rights over Plots 8 and 9 on the opposite side of the Link Road are secured under the CPO. Access and working space to construct the embankment cannot be achieved from the opposite side of the scheme. The viaduct is approximately 20m wide and it is impractical to construct the abutment foundations, and construct the abutment and to swing the beams into position without the temporary availability of Plot 12.



32. To summarise, KCC is not seeking to acquire rights that can be used on a permanent basis and that is what the Horshams requested.

**Plot 14**

**Fig.8**



34. KCC sought to acquire title to Plot 14 in the made CPO for construction of the viaduct and for its ongoing inspection and maintenance – see Fig. 8 above.

35. In previous discussions relating to land under the viaduct, KCC has indicated that it can accommodate the acquisition of rights over Plot 14 rather than title. Mr Horsham's POE challenges the need for KCC to take permanent rights over the land.

36. KCC, in its letter dated 5 September, indicated that it did not require rights to the river or river bed, but just access above the river for construction and then permanent rights for inspection and maintenance of the viaduct. KCC therefore proposes a modification to the CPO Schedule to show the acquisition of temporary rights for construction and permanent rights for inspection and maintenance.

**Plot 15**

37. As with Plot 14, KCC does not require rights to the river or river bed, but just access above the river for temporary working space for the construction of the viaduct and room to swing the viaduct beams into position – see Fig. 8 above. As with Plot 12, the rights indicated in the Schedule to the made CPO refer to the acquisition of *‘All rights necessary for the acquiring authority to use the land as a temporary working area for the construction of the works....’*

38. KCC is not seeking to acquire permanent rights and that is what the Horshams requested.

#### **Embankment related security and land take**

39. Mr Horsham’s POE also includes a section relating to embankment related security and land take. The Horshams are concerned about security following the construction of the Link Road along the side of their property. They consider that a steeper side slope for the embankment is achievable that would improve security and also take less land. They are concerned about public access being possible to their property and they also challenge the adequacy of the fencing that KCC has suggested. They also comment on their long standing request for details of the proposed Link Road landscaping.

40. In response to Mr Horsham’s concerns raised regarding the embankment side slope, an explanation of why it requires to be 1 vertical in 2.5 horizontal is in Jonathan East’s POE (section 6 ). Mr Horsham refers to Fig K in his POE that shows a 1 vertical in 1 horizontal side slope, but this was from an indicative landscaping plan and not a geotechnical engineering scheme design drawing and the side slope shown is an error. Mr Horsham’s POE also refers to steeper side slopes being regularly seen, and the recently completed A249 junction scheme is given as an example. However, this is not an appropriate comparison as that scheme is located in chalk and cuttings, not embankments, can be left steep.

41. The Horshams concern about having a new road along the side boundary of the property is understood, but the Link Road has been subject to a rigorous planning process where matters such as the impact on neighbouring properties has been considered and planning permission granted.

42. My view is that security can best be achieved by appropriate accommodation works fencing along the side and acquisition boundary. As referred to in the section above on Plot 11, the boundary fence can be continued under the viaduct (Option 1) or tied back into the corner of the viaduct abutment (Option 2). The western boundary of the Horshams land on the west side of the viaduct will be fenced and that has the benefit of being adjacent to a secure site owned by the water authority.

43. KCC ,in the letter dated 5 September, has offered to provide fencing and has recommended chain link fencing on concrete posts as the most secure, and with less maintenance liability. Any fence provided as accommodation works will be to British Standards. Any concerns about maintenance liability can be considered when the disturbance aspects of the Link Road scheme are considered as part of compensation discussions for the acquisition of the land and rights if the Order is confirmed.

44. Landscaping is a pre-commencement reserved planning matter and not a matter that the CPO inquiry can resolve. Fig K in Mr Horsham’s POE is the indicative landscaping proposals submitted with the Link Road planning application. KCC advised the Horshams in

April 2024 that when the reserved matters landscaping application is being prepared they will be consulted and their views taken into account, but that the decision will ultimately be for the planning authority.

45. Summary of proposed modifications to the CPO is described in the following table.

**Summary Table of Proposed Modifications to CPO**

| <b>Plot No.</b> | <b>Area in Made CPO - sqm</b> | <b>Area in CPO as proposed to be modified in Appendix X to Mr Shelton's Proof - sqm</b> | <b>Area in CPO as proposed to be modified as at 20 September 2024</b><br><br><b>Land under Viaduct Option 1</b> | <b>Area in CPO as proposed to be modified as at 20 September 2024</b><br><br><b>Land under Viaduct Option 2</b> | <b>Status</b>   |
|-----------------|-------------------------------|---|---|---|---|
| <b>Plot 11</b>  | 900                           | 715   | 737   | 682   | <b>Explanation</b><br>Area of acquisition of title reduced – see new Plots 11a and 11b.<br><br><b>Requirement</b><br>Title – unchanged  |
| <b>Plot 11a</b> | 0                             | 15  | 15  | 15  | <b>Explanation</b><br>New plot to reflect area removed from Plot 11. Temporary rights required.<br><br><b>Requirement</b><br>Temporary Rights.  |
| <b>Plot 11b</b> | 0                             | 170   | 148   | 203   | <b>Explanation</b><br>New plot to reflect area removed from Plot 11. Change of requirement from title to flying freehold above viaduct, temporary rights for construction and permanent rights.<br><br><b>Requirement</b><br>Flying Freehold Title<br>Temporary Rights<br>Permanent Rights. |
| <b>Plot 12</b>  | 317                           | 317   | 317   | 317   | <b>Requirement</b><br>Temporary Rights – unchanged.   |
| <b>Plot 14</b>  | 179                           | 179   | 179   | 179   | <b>Explanation</b><br>No requirement for title of river or river bed. Change of requirement from title to flying freehold above viaduct, temporary rights for construction and permanent rights.<br><br><b>Requirement</b>  |

|                   |      |      |      |      |   |
|-------------------|------|------|------|------|---|
|                   |      |      |      |      | Flying Freehold Title<br>Temporary Rights<br>Permanent Rights   |
| <b>Plot 15</b>    | 124  | 124  | 124  | 124  | <b>Requirement</b><br>Temporary Rights - unchanged.   |
| <b>Total Area</b> | 1520 | 1520 | 1520 | 1520 | <b>Summary</b><br>Overall area and boundary of CPO remains unchanged but some movement from Title to Permanent/Temporary Rights |
|                   |      |      |      |      |   |
| <b>Plot 4</b>     | 46   | 0    | 0    | 0    | Plot deleted  |

46. 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: **Richard Shelton**

20 September 2024

### Appendices

1. KCC letter to H dated 5 September 2024
2. KCC letter to the Horshams dated 14 September 2024
3. Proposed modification of CPO Map – Plan Ref: SLR CPO 17–1 - (Viaduct Option 1)
4. Proposed modification of CPO Map – Drg. No. SLR CPO 17-1 - (Viaduct Option 2)
5. Proposed modification of CPO Schedule – (Viaduct Option 1)
6. Proposed modification of CPO Schedule - (Viaduct Option 2)