

**THE HIGHWAYS ACT 1980**

**-and-**

**THE ACQUISITION OF LAND ACT 1981**

**THE HIGHWAYS (INQUIRIES PROCEDURE) RULES 1994**

**COMPULSORY PURCHASE (INQUIRIES PROCEDURE) RULES 2007**

**REFERENCE: LAO/NW/SRO/2013/40 and LAO/NW/CPO/2013/41**

**REBUTTAL PROOF**

**-of-**

**James McMahon in relation to the Proof**

**of**

**The Brown Rural Partnership**

**on behalf of Mrs Janet Shirt**

**The Metropolitan Borough Council of Stockport**

**acting on its behalf and on behalf of**

**-Manchester City Council -and-**

**Cheshire East Borough Council**

**to be presented to a Local Public Inquiry on the 30<sup>th</sup> September 2014 to consider  
objections to**

**THE METROPOLITAN BOROUGH OF STOCKPORT (HAZEL GROVE (A6) TO  
MANCHESTER AIRPORT A555 CLASSIFIED ROAD) COMPULSORY PURCHASE  
ORDER 2013**

**THE METROPOLITAN BOROUGH OF STOCKPORT (HAZEL GROVE (A6) TO  
MANCHESTER AIRPORT A555 CLASSIFIED ROAD) (SIDE ROADS) ORDER 2013**

**Parveen Akhtar**

**Head of Legal and Democratic Governance**

**The Metropolitan Borough Council of Stockport**

**Corporate and Support Services**

**Town Hall, Stockport SK1 3XE**

This rebuttal proof of evidence sets out the Council's response to the objector's proof in relation to their objection to the A6 to Manchester Airport Relief Road Compulsory Purchase Order and/ or Side Road Order that was submitted to the Department for Transport by The Brown Rural Partnership on behalf of Mrs Janet Shirt.

This rebuttal proof is presented by the Council's Project Director for the A6MARR scheme. James McMahon, however, contributions to this rebuttal have been made by the Council's Expert Witnesses as indicated alongside the responses.

The Expert Witnesses contributing to the responses to the objections submitted are as follows:

<b>Expert Witness</b>	<b>Initials</b>	<b>Proof of Evidence Name and Reference Number</b>
James McMahon	JMcM	Volume 1
Naz Huda	NH	Volume 2
Nasar Malik	NM	Volume 3
Paul Reid	PR	Volume 4
Paul Colclough	PC	Volume 5
Jamie Bardot	JB	Volume 6
Alan Houghton	AC	Volume 7
Sue Stevenson	SS	Volume 8
James McMahon	JMcM	Volume 9
Henry Church	HC	Volume 10

A plan showing the relevant land contained within the order(s) is shown at Figure 1.

<p>Objector 8: Mrs Janet Shirt  83 Mill Lane, Hazel Grove, Stockport, SK7 6DW  CPO Plots: 1/4H-1/4J 2/5 2/5A 2/5B 2/9 2/9A-2/9N 2/9AA 2/9AB  Agent:  John Seed  Brown Rural Partnership, 29 Church Street, Macclesfield, Cheshire, SK11 6LB</p>			
Element of objector proof	Objection	Response	Expert Witness
08/R01	<p>Our client is a tenant of land at Mill Lane, Hazel grove, Stockport, Cheshire, which is owned by Michael E Simpson and Mrs Kathryn O Livesey (The Trustees of Simpson). She is also a licensee of land at Mill Lane, Hazel Grove, Stockport, Cheshire, which is owned by Stockport Metropolitan Borough Council. Mrs Shirt has rented the land from both landlords for a number of years and has a justifiable expectancy that this situation will continue. Mrs Shirt supports the objection of her landlord, The trustees of Simpson. Our client is concerned about the proposed land take and impact of the scheme and/or its design on the retained land.</p>	<p>The potential for adverse impact on Mrs Shirt's business is recognised and Stockport Council has worked with her landlord and agent to minimise the land take as far as possible. There is considered to no viable alternative other than to include the land take referenced in the Orders to deliver the scheme proposals.</p> <p>Mrs Shirt's occupation of land owned by The Trustees of Simpson is by virtue of an agreement that is capable of being terminated on 1 month's notice. The effect of this is that Mrs Short appears not to have a compensatable interest.</p> <p>Mrs Shirt occupies land owned by SMBC by virtue of a licence. She has been advised that the licence will not be renewed in February 2015.</p> <p>Whilst Mrs Shirt has rented the land from both landlords for a number of years she should not have a "justifiable expectancy" that that situation would continue. If that was the intention of Mrs Shirt or the Trustees of Simpson and SMBC then it would be for the parties to enter into an agreement to that effect.</p> <p>A permanent occupation of its land would impact on the Trustees of Simpson's aspiration, as set out in their proof, to develop land within its ownership.</p>	HC

08/R02	<p>Whilst the statement of case examines a range of impacts, including environmental, air quality, cultural heritage, landscape, ecology and nature conservation, geology and soils, noise and vibration etc., it offers no explanation of the impact on agricultural land, and how this is to be mitigated.</p> <p>It is accepted that the Authority commissioned a limited Agricultural Impact Assessment; this had resulted in a brief section in the Environmental Statement but chiefly as an appendix to it. It was prepared, so far as I can determine, after minimal investigation and consultation; I was involved in an office meeting of approximately 1.5 hours with the agricultural consultant involved on 12<sup>th</sup> October 2012, but at an early stage of our being instructed by various clients. I am not aware of any detailed consultations by the consultant with our clients directly. The agricultural data sheets provide a brief summary of the impact of the scheme on various landholdings and a very brief note on proposed mitigation.</p>	<p>Reference is made to agricultural and agricultural holdings under Community and Private Assets in the Statement of Case (paragraphs 20.23 and 20.24).</p> <p>As is acknowledged by Mr Seed, an assessment of the impact of the proposed scheme on agricultural land and that referred to in Mr Seed's proof of evidence has been undertaken and was reported in the Environmental Statement. The conduct of the assessments relating to agricultural land and individual farms, including that forming the subject of Mr Seed's evidence, was informed by the guidelines contained in the Design Manual for Roads and Bridges, Volume 11, Section 3. Part 6 - Land use. The guidance is nationally recognised and is adopted for the assessment of major road schemes throughout the UK.</p> <p>With regard to the concerns raised that more detailed discussion is required relating to accommodation works, further discussions will be held and appropriate measures agreed should the draft orders be approved and the proposed scheme be progressed.</p>	PR
08/R03	<p>It is critical for the future use of retained land in agricultural or equestrian use that the scheme and/or its contractors employ specialist land drainage consultants and contractors to advise on and undertake appropriate land drainage remedial works, including new header drains, on relevant lands. This has been proposed as a</p>	<p>It has often been difficult to chart existing land drainage across private fields. Occasionally plans are provided in advance of the works but not in this case. It is therefore considered that much of the drainage will be discovered during construction. Connection to appropriate discharge points will be made physically by the contractor.</p> <p>All adoptable earthworks drainage will provide a drainage</p>	NH/ HC

	<p>standard accommodation work but does not appear to have been accepted by the Authority.</p>	<p>system that caters for the toe and top of earthworks slopes run off. This will be a combination of perforated French drains and ditches. This will provide opportunity to connect in severed private drains, if alternative discharge points, such as natural watercourses, ponds etc. are unavailable.</p> <p>The Council and the Contractor will liaise with the farming tenant or the objector in order to understand the existing field drainage systems.</p>	
08/R04	<p>Our client believes that the extent of bunding and land taken for the footway/cycle way, as well as the accommodation road, on the land to the south of the A6 is excessive. An alternative access using Old Mill Lane, or alternatively Mill Lane, would achieve the same ends at a much lower construction and compensation cost.</p>	<p>An alternative location for the bridge was suggested adjacent to Bridge B002 (Road under Hazel Grove Rail Line). This is not a viable option as it the location is not optimum position to cater for its multi-purpose natures including accommodating walkers currently using Footpath FP76HGB, PwWFP62, FP109HGB. The location of the bridge is located close to the confluence of these footpaths.</p> <p>The location of the bridge also mitigates the severance of land tenanted by Mrs Helen Harrison of Mill Fold Riding School.</p> <p>The ramp and bridge are design to cater for agricultural purposes. The ramp radii, gradients, widths, surfacing and bridge width, loadings are designed to the appropriate design standards to accommodate agricultural movements.</p>	NH
08/R05	<p>It is submitted that more could be done to reduce the impact of the land take having regard to the following:</p> <ul style="list-style-type: none"> <li>• As has been accepted by the design engineer, bund grading could be reviewed to reduce the</li> </ul>	<p>2 plots included in the CPO have been included on environmental grounds. These comprise plots 2/5 and plot 2/9E. Both are small plots which provide for mounding to partially screen and contribute to mitigation of traffic-related noise for property on Millbrook Fold and traffic-related noise for property on Mill Lane from traffic on dual carriageway. Woodland planting on mounding completes</p>	NH/ PR

	<p>land take.</p> <ul style="list-style-type: none"> <li>• Bunding has been reduced elsewhere: at Page 46 of the Council’s Statement of Case – “engineers have agreed to reduce bunding to minimise land take”.</li> <li>• At 5.6 of the Environmental Statement, a shortfall of excavation overfill is noted.</li> <li>• Notwithstanding the landowners, The Trustees of Simpson, have offered to take permanent fill on retained land.</li> <li>• A noise/acoustic fence is being constructed to the rear of properties on the A6 near the entrance to Hazel Grove Golf Club, and therefore be utilised elsewhere on the Trustees land.</li> </ul>	<p>screening and contributes to the integration of the dual carriageway where it runs close to the wooded Norbury Brook.</p> <p>The purpose of the bunding and landscaping being to screen the road to limit visual intrusion. The Council believes the measures are proportionate to the scale of the proposed scheme taking into account the location and that, as such, they are reasonable. The approach taken to the design and implementation of the bunding was to follow appropriate guidance for purposes of maintenance. We have only sought to utilise noise fencing only when there is a lack of space and/ or where there requires to be more effective noise mitigation.</p> <p>We note that the reference within the Council’s Statement of Case to that stated in bullet point 2 of the Objection referenced 08/R04 with regard to “engineers have agreed to reduce bunding to minimise land take” is page 46 of the Appendix.</p>	
08/R06	<p>Our client’s business activities will be severely impacted not only during the construction of the scheme, but also as a result of the division of the land and the volume of land lost under both ownerships.</p>	<p><u>Post Scheme Implementation</u>  The extent of Mrs Shirt’s business activities are unknown as accounts having been requested but have not been provided. However if losses do occur then she will be entitled to claim for compensation, the quantum of which will be assessed in accordance with the compensation code.</p> <p><u>During Construction</u>  Due to the intensity of works involved in constructing the new railway bridge, Hazel Grove to Buxton Railway Bridge together with the intended earthwork activities, it would not be appropriate in terms of controlling construction Health and Safety issues to allow access across the Works to</p>	HC/ NH

		<p>third parties.</p> <p>However access to the south side of the road could be available via the level crossing noted as “User Worked Crossing –Mill/Towers Farm. One of the objector’s landlords, Simpson and Livesey, currently has rights to cross this level crossing which could potentially be utilised by their tenant.</p> <p>The land required for the scheme is for a combination of requirements:</p> <ul style="list-style-type: none"> <li>• Permanent land take for the road, its cuttings and the environmental bunding;</li> <li>• For construction of the accommodation bridge;</li> <li>• Land required on a temporary basis for the purposes of stockpiling topsoil and for a compound area for the contractor to construct Bridge B002 Hazel Grove and Buxton Rail Bridge.</li> </ul> <p>It has been demonstrated within Naz Huda’s proof of the compelling case to acquire the land for the purposes above.</p>	
08/R07	Our client has objected to the inclusion within the CPO of land described on the plot plans as area required for temporary licence. The Acquiring Authority maintains that it is unable to acquire land on a temporary basis via the CPO process, but is equally unable to demonstrate beyond doubt that the land in question will be acquired on a temporary basis and returned to the owners.	<p>SMBC is unable to acquire land required temporarily using compulsory purchase and therefore, to ensure scheme delivery, needs to acquire the land permanently. Land that is, on completion of the scheme will be offered back to the landowner under the Crichel Down rules.</p> <p>Notwithstanding this Mrs Shirt’s interest will be terminated on implementation of the CPO. It will be for her landlord to determine whether it re-lets returned land to her.</p>	HC
08/R08	The Authority have not demonstrated that any land taken for temporary occupation will be returned in the same condition,	SMBC will use reasonable endeavours to return the land to the landowner in as close a condition to that existing prior to its acquisition. Insofar as this is not the case then	HC

	status or with the same levels as exists prior to entry. There is no guarantee that such land will again be suitable for equestrian purposes.	compensation will be payable in accordance with the compensation code.	
08/R09	Mrs Shirt will be substantially adversely affected by the inclusion of two major temporary occupation sites. There is no indication from the Authority as to how and when this situation could be mitigated. Similarly there is no indication from the Authority as to how land in south west corner of The Trustees of Simpson land holding will be accessed during construction.	<p>The potential for adverse impact on Mrs Shirt's business is recognised and SMBC has worked with her landlord and agent to minimise the land take as far as possible.</p> <p>A product of her tenure is that her activities are inherently vulnerable to a change in policy by her landlords.</p> <p>The Compound areas required, allow for storage areas, general welfare cabins together with all the working areas required for the construction of Hazel Grove to Buxton Railway Bridge. The bridge is to be constructed off line and then slid into position during a 'possession' of the railway line in agreement with Network Rail. It is the current intention that the Compound areas would be in use from summer 2015 until spring 2017.</p> <p>No access would be available across the construction works into the woodland, south of Bridge B003 (south of Old Mill Lane) during the period of construction. However, access would be made available in the first few months of the overall construction period, i.e. prior to the actual works in this area commencing if required.</p>	HC/ NH
08/R10	A detailed and fully justified compensation claim for losses arising out of the Ground Investigation Survey was submitted on June 19 <sup>th</sup> 2014. As at the date of this proof, no financial offer has been made in response to the claim, demonstrating a lack of good faith on the part of the Authority.	The claim referred to is not a matter for this Inquiry, for the record, the claim is the subject of ongoing negotiation and an interim payment of compensation is being processed.	HC



08/R11	<p>Prior to the design of the accommodation bridge affecting the land to the south of A6, our client was not consulted on the location and design details of the bridge, and accordingly the bridge has been designed without an understanding of her needs and concerns.</p> <p>We submit that a more cost effective route for the accommodation bridge would be from a junction between Mill Lane and the railway line.</p>	<p>On 31st October 2012, the Council sent the objector a letter providing information about the Local Liaison Forums being held as part of the public consultation on the scheme and asking if the objector would be interested in joining.</p> <p>On 24th April 2013 the objector was invited to the Hazel Grove Local Liaison Forum event held on 14th May 2013 as part of the Phase 2 public consultation on the emerging preferred scheme. On the 17th September 2013, the objector was invited to a Local Liaison Forum drop-in session held on 8th October 2013 to present the preferred scheme design prior to the submission of the planning application.</p> <p>The position of the proposed bridge was shown during the two stages of consultation and as part of the first stage of consultation there was an explicit consultation event for land owners who had concerns regarding the design to come and meet the designers to allow people to identify any issues they had.</p> <p>Consultation has occurred with the objector regarding the location of the bridge. An alternative location for the bridge was suggested adjacent to Bridge B002 (Road under Hazel Grove Rail Line). This is not a viable option as it the location is not optimum position to cater for its multi-purpose natures including accommodating walkers currently using Footpath FP76HGB, PwWFP62, FP109HGB. The location of the bridge is located close to the confluence of these footpaths. The loadings and dimensions have been designed to cater for agricultural vehicles within the preliminary design stage and to the latest Eurocodes which take account of all loadings of</p>	SS/ NH
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		<p>modern farm machinery and road lorries. The Contractor will design the Structure and the Technical Approval Authority acting as an independent checker. In this case Stockport Metropolitan Borough Council Highways Structures Section are the approving authority.</p> <p>Confirmation of any details of intended farm machinery usage from the objector into the Detailed Design Stage of the Project would resolve this issue. However, the Council consider that the Design Manuals and Eurocodes for structures take account of the Objectors concerns.</p>	
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Figure 1: Land within the Order(s)

