

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

Stephenson & Son

on behalf of Paul Galligan, 218 Woodford Road, Woodford

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 30th 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 Stephenson & Son on behalf of Paul Galligan, 218 Woodford Road, Woodford.

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:

Expert Witness	Initials	Proof of Evidence Name and Reference Number
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.

Objector 55: Mr Paul Galligan
 218 Woodford Road, Woodford, Cheshire SK7 1QF
 Agent:
 Mr Stephenson
 Stephenson & Son, Chartered Surveyors, York Auction Centre, Murton, York, YO19 5GF

Element of objector proof	Objection	Response	Expert Witness
55/R01	<p>Oil Pipeline Diversion</p> <p>There is an oil pipeline through the Galligan's land as coloured purple on the attached Plan No. 2 whereon the Galligan land is edged red.</p> <p>This pipeline has to be diverted because of the new road and 3 alternatives are shown on the plan being:-</p> <ul style="list-style-type: none"> • Route A is dotted green north of the road. • Route B is dotted blue south of the road. • A solid blue line south of the road showing the original proposed diversion. <p>After discussions with Fisher German representing the Oil and Pipelines Agency, we agreed that the dotted blue route B would be the most acceptable and least</p>	<p>The oil pipeline diversion is being promoted by the Oil and Pipelines Agency (OPA) under its legislation and is not, therefore, a matter for this Public Inquiry.</p> <p>The A6MARR project team is working with the OPA with regard to promoting the alternative pipeline alignment on the south side of the proposed road and along a route (Route B) that has been discussed and agreed with Mr Galligan.</p> <p>OPA is currently preparing a further planning submission for submission by end of September 2014 to Stockport Council Local Planning authority (LPA) with a realigned pipeline diversion in accordance with Route B. The updated planning application is required as the realignment goes outside of the existing 'red line boundary' (within Stockport Council's boundary) of the planning application for the pipeline diversion that has recently been approved by both Stockport Council and Cheshire East LPA's.</p> <p>The Council has given an undertaking to use reasonable endeavours to diligently pursue a planning application for a diversion of the oil pipeline on a realigned alignment as per</p>	AH, NH, HC

	<p>damaging to our clients interest. Whilst we have has assurances from Fisher German that the pipeline would follow Route B; we have had no confirmation that the route will be part of the CPO.</p> <p>Our submission is that route B as dotted on the plan should be formally accepted by SMBC as part of the CPO.</p>	<p>route B and as set out by the objector, and given an undertaking to construct this should an implementable planning consent be granted. This has been accepted by Fisher German acting on behalf of the Oil and Pipelines Agency.</p> <p>The Council has also instructed to design the road scheme to facilitate the route option B. This has involved liaison with various facets of the design team including environmental, drainage, earthworks, etc.</p>	
55/R02	<p>Land Drainage</p> <p>The concern is over the effect of the enormous construction works on existing patterns of land drainage be they artificial in the form of clay or plastic pipes; or natural in the way that underground water has flowed in previous years. SMBC has adopted a casual approach to the problem, referring only to a ditch or drain that will run at the bottom of the highway boundary with adjoining land.</p> <p>It cannot be over emphasised that there is a danger of a serious legacy being left if drainage is not dealt with correctly.</p>	<p>SMBC will intercept every artificial land drain, whether previously identified or not, and will pipe it to a suitable outfall. This undertaking is proposed as a contractual term in the negotiations between SMBC and Galligan.</p> <p>It was agreed with the objector that this culvert would be allowed for and this commitment has remained.</p> <p>It has often been difficult to chart existing land drainage across private fields. Occasionally, plans are provided 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 system that caters for the toe and top of earthworks slopes run off. This will be a combination of French/Fin 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>	NH, HC,

	<p>Our submission is on 3 counts:</p> <ul style="list-style-type: none"> • There must be provision for drains to cross underneath the road from south to north, connecting into the nearest surface watercourse. This may already be provided at point A but we need assurance that there is connectivity into both the carrier main to which we refer next and the subsidiary land drainage schemes. • An underground carrier main within adjoining landowners' property and adjacent to the motorway which is capable of taking water to the cross drain referred to above. <p>An instruction to SMBC that they should be prepared to carry out subsidiary drainage schemes on any land which is affected by the motorway.</p>	<p>The Council and the Contractor will liaise with the objector in order to understand the existing field drainage systems and their specific requirements.</p>	
55/R03	<p>Footpaths</p> <p>FP16</p> <p>This route connects FP14 with FP19 and runs north to south.</p>	<p>The route along the access road would be adjacent to the road taking oil tankers to and from the depot whereas the existing path is across fields. The Council did not consult on any closures apart from necessary diversions and in discussions with local residents and rights of way groups it was understood they valued the existing routes across the fields.</p>	NH, SS

	<p>When the roadway is constructed, there will be a footpath running alongside the access road to the oil depot which connects into FP19 between the points B and C on the attached plan.</p> <p>FP16 would only serve to cut across our clients land for a short distance and through the farmstead duplicating the access road footpath. In the interest of safety and security it would be preferable to have this length of footpath extinguished.</p>	<p>FP16 offers a leisure route running from north to south. The footpath is to be stopped up for a distance of 95m as indicated within the Side Roads Order Schedule 5 and Site Plan 5 that is affected by the creation of the new relief road and the oil terminal roundabout junction.</p> <p>The remainder of FP16 heading north to FP19 is to remain and connections to it are provided within the scheme proposals.</p> <p>There is no intention nor justification to stop up the remainder of the footpath as it offers walkers a route away from the access link to the oil terminals, to FP19 and beyond.</p>	
55/R04	<p>FP19</p> <p>This footpath crosses the Galligan land both north and south of the new road.</p> <p>North of the road the farm is going to be left with 2 small fields which FP19 will cut straight across.</p> <p>There is already provision for a cycle track alongside of the motorway to the north</p>	<p>Footpath 19 is also a used local route and no proposal was consulted upon to divert it. The Council may subsequently consider diverting the route around the field subject to consultation with local walking groups and residents but would not support its closure.</p> <p>The section of FP19 in question runs north south across the fields to the north of the A6MARR.</p> <p>It is to be stopped up as indicated in the SRO schedule 4 and the modified Site Plan 4 for a distance of 148m across the alignment of the A6MARR including the embankments.</p> <p>There is no intention nor justification to stop up the remainder of the footpath as it offers walkers a route away from the access link to the oil terminals.</p>	NH, SS

	<p>and a secondary pedestrian footpath at the bottom of the bank within the motorway boundary.</p> <p>FP19 north of the motorway becomes an anachronism and should be extinguished.</p> <p>South of the motorway the existing route of FP19 is accepted and any amendment would be resisted as interfering further with our client's enjoyment of his property.</p>		
55/R05	<p>It is our submission that FP numbers 16 and 19 should be extinguished north of the motorway as there is sufficient provision of footpaths in the proposals.</p>	<p>The project team has tried to minimise its impact on the existing rights of way network minimising the diversions and seeking to improve provision and links to the proposed shared use path. It is not an objective of the scheme to close existing rights of way and no closures without accompanying diversions were consulted upon as part of the schemes consultation process. The local rights of way across the fields are used by local residents and it is anticipated that any suggestion of closure would receive objections.</p> <p>During the consultation process in discussion with local user groups the Council's position was that it would seek to divert rights of way where necessary and improve access where practicable to support the objectives of the scheme.</p>	SS

<p>55/R06</p>	<p>Mains Water Supply</p> <p>At present the Galligan's rely upon a natural surface water pond for their animals to drink:-</p> <ul style="list-style-type: none"> • On grazing land to the east of the oil depot access road <p>During construction and after the scheme is finished, there is likely to be a large amount of disruption which could affect the source of supply. There is the real possibility of contamination of surface water during the construction period and of lower water levels afterwards, making the ponds unusable for cattle.</p> <p>It is understood that a new water main is to be laid along the side of the oil depot access road from which supplies could be taken to the Galligan land.</p> <p>It is our submission that the CPO should provide for mains water supply</p>	<p>SMBC undertakes to provide a mains water supply to Galligan's land.</p> <p>The Council has committed to a culvert underneath the A6MARR mainline and to construct accommodation works drainage (or compensate the objector in order to construct the drainage system himself).</p> <p>Further to that United Utilities PLC have advised the Council that applications are to be made to them directly in order to commission new water supplies but the Council is willing to make those applications on behalf of the objector at the appropriate time prior to construction. UU are indeed diverting a water main that runs within land that the objector owns as a product of the scheme. The Council will ensure that a constant water supply is maintained during and after the works subject to the overall compensation package.</p>	<p>HC, NH</p>
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	to be provided once the scheme is finished to all parts of the severed Galligan land.		
55/R07	<p>Landowners and Farmers Time</p> <p>It is universally accepted practise in this country to pay for reasonable time spent by landowners and farmers in dealing with situations that arise as a result of the scheme before, during and after construction.</p> <p>SMBC have issued a statement to the effect that on Counsels' advice they will only pay for claimant's time on "proof of loss".</p> <p>Many claimants will have other businesses unconnected with the occupational activity on the land and proof of loss in these circumstances is almost impossible.</p> <p>Nevertheless genuine time is being spent by them as a result of the scheme and they ought to receive automatic</p>	<p>It is recognised and acknowledged that affected parties spend time dealing with the proposal. SMBC has given a clear commitment to reimburse affected parties for their time subject to proof of loss i.e. in accordance with the principle set out in the compensation code.</p>	HC

	<p>recognition of this without having to prove loss. This is standard practise on other schemes and should be followed on this one.</p> <p>Our submission is that client's time, at agreed rates, should be paid as a matter of right for the reasonable time put in as a result of the scheme.</p>		
55/R08	<p>Agents/Valuers Fees</p> <p>It is standard practise throughout the country for valuers and agents fees to be paid direct by the public authority or utility company; SMBC have stated that they will only settle such fees by payment through the claimant's solicitors.</p> <p>This is a ridiculous waste of professional time and clear insult to the surveying profession.</p> <p>It is our submission that SMBC should pay fees direct to land agents and valuers after such fees have been approved as reasonable by both client</p>	<p>Stockport Council has given a clear undertaking to reimburse claimants for their time, see Appendix HC1. The Council has taken advice as to the applicability of the decision in Thomas Newall and has advised affected parties that it will reimburse them for their time but that they need to evidence loss (not impute a nominal time charge) for losses in excess of those reimbursed under the loss of profits claim. Mr Stephenson is aware of the procedure in place for reimbursement – set out in Henry Church's email to him dated 26 March 2014.</p>	HC

	and SMBC.		
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Figure 1: Land within the Order(s)

