

## COMPLETION OF HEYSHAM TO M6 LINK

# THE LANCASHIRE COUNTY COUNCIL (TORRISHOLME TO M6 LINK (A683 COMPLETION OF HEYSHAM TO M6 LINK ROAD)) ORDER

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## STATEMENT OF REASONS FOR COMPULSORY ACQUISITION

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<b>Infrastructure Planning The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009</b>	
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## **1.0 SUMMARY**

- 1.1 This Statement explains why it is necessary and justifiable for the Development Consent Order (DCO) to contain the powers referred to in paragraph 2.3 (“the compulsory acquisition powers”), which relate to the Land. The matters to be addressed and the County Council's responses may be summarised as follows. References to numbered sections or paragraphs are to sections or paragraphs of this Statement.

### **Scope of Compulsory Acquisition (Section 3)**

- 1.2 Regulation 5(2) (h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (“the APFP Regulations”) requires a statement of reasons for seeking powers to authorise “compulsory acquisition of land or an interest in or a right over land”. In addition to authorising the acquisition of land and rights, and interference with existing rights, the DCO includes powers to create new rights over or in land, to extinguish private rights, to exercise rights in relation to streets and private accesses, to make temporary use of land (to the exclusion of others) for construction and maintenance, to permanently stop up streets and temporarily alter, restrict, prohibit the use of or stop up streets. All these additional powers relate to the ownership, occupation and use of land and will or may interfere with property rights and interests. As the justification for seeking these additional powers raises all the same issues as apply to the acquisition of land and rights, this Statement relates also to them. The expression “compulsory acquisition powers” accordingly includes these additional powers.

### **Description of Land Subject to Compulsory Acquisition (Section 4)**

- 1.3 The land is located approximately to the north of Lancaster between the Morecambe and Heysham peninsula and the M6 motorway to the east. At its western limit the scheme starts adjacent to the White Lund industrial estate and runs generally east to the M6 Junction 34. The scheme includes four new slip roads to replace the existing Junction 34. The land is mainly agricultural land but there is some commercial land affected.

### **General Description of the Scheme (Section 5)**

- 1.4 The Council has made application to construct a new two lane dual carriageway road approximately 4.8 km long, connecting the M6 to the Morecambe – Heysham Peninsula together with a new junction 34 on the M6 motorway. A general description of the Scheme is set out in section 5.

### **Purpose in Seeking Compulsory Acquisition (Section 6)**

- 1.5 The Compulsory acquisition powers in relation to the land are necessary to enable the following:-

- 1.5.1 the construction of a new dual carriageway, approximately 4.8 kilometres long, connecting the junction of the A683 /A589 by Lancaster and Morecambe College with junction 34 of the M6 motorway;
  - 1.5.2 the construction of a new bridge over the River Lune;
  - 1.5.3 the construction of new highways which will be highways maintainable at the public expense, the carrying out of drainage works, the improvement of existing highways and the improvement or development of frontages to a highway or of the land adjoining or adjacent to that highway
  - 1.5.4 the carrying out of works relating to a classified road and special road;
  - 1.5.5 a replacement culvert for Slynedales culvert;
  - 1.5.6 replacement land for open space land that is being lost to the scheme;
  - 1.5.7 diversions of sections of two gas pipelines;
  - 1.5.8 the mitigation of any adverse effects which the existence or use of any highway proposed to be constructed will have on the surroundings of the highway;
  - 1.5.9 the construction of a park and ride scheme.
- 1.6 The need for the Scheme is explained in the Volume 1 of the Environmental Statement Part A (document reference: 11063/6.1). The purposes for which the land is required is set out in Section 6.

**Justification for use compulsory acquisition powers (Section 7).**

- 1.7 There is no alternative route that would avoid the need for compulsory acquisition. The government is committing £110.9m towards the £123.3m cost of the project and to ensure that the land is available for this publicly-funded project at the lowest cost, powers of compulsory acquisition are necessary.
- 1.8 It cannot be assumed that acquisition by agreement will be possible without such powers, which also ensure that the Land can be acquired for no more than the market value. The County Council will acquire land by agreement where this is possible at reasonable cost, within the project timescale and on terms that allow the project to proceed, but must keep powers of compulsory acquisition in reserve to ensure that the project will be realised.
- 1.9 The Scheme will contribute to local, regional and national objectives in transport and other areas and there is a compelling case in the public interest

for the DCO to be made. This means that the Land can be subject to powers of compulsory purchase.

### **Negotiations with Landowners (Section 8)**

- 1.10 All owners and occupiers with an interest in land have been approached to ask if they be prepared to enter into negotiations with the County Council for the purchase of their interest. Because of this many interests have already been bought. Section 8 lists the plots required for the scheme with the summary of the current situation.

### **The Planning Position (Section 9)**

- 1.11 The scheme accords with local planning policy and benefits from five different planning permissions. However, due to changes made to the scheme to reduce the cost as part of the government spending review, a new planning application is required and this will be an application for a composite consent to the IPC. This section sets out the planning history of the scheme.

### **Human Rights (Section 10)**

- 1.12 The DCO has the potential to infringe the human rights of persons who own property in the Order Land. This section sets out the articles of the European Convention on Human Rights which are relevant to the determination as to whether the DCO should be made so as to include the powers of compulsory acquisition. The County Council concludes that there would be very significant public benefits arising from the grant of development consent and that these benefits can only be realised if the development consent is accompanied by the grant of powers of compulsory acquisition.

### **Special considerations (Section 11)**

#### **Special Category Land – Open Space and Crown Land**

- 1.13 Some of the land that it is proposed to be acquired and which will be lost as a result of the Scheme is special category land, namely open space, some of which will be replaced. The Council intends to make an application to the Secretary of State for Communities and Local Government for a certificate under sections 131 and 132 of the Planning Act 2008.
- 1.14 Plots 202, 204, 210 to 213 215 to 220, 224 to 226, 245, 246, 249, 259, 272b, 272c, 275, 276, 278 and 279 shown on the Land Plan and described in the Book of Reference are Crown Land. Plots 216 to 219 and 226 are vested in the Secretary of State for Defence. Plots 202, 204, 210 to 213, 215, 220, 245, 246, 249, 259, 272b, 272c, 275, 276, 278 and 279 are vested in the Secretary of State for Transport. The Secretary of State for Transport has registered title for Plots 224 and 225 though the Secretary of State for Defence also considers he has ownership of these plots.

- 1.15 At the date of submission, the County Council has sought the necessary consents from the appropriate Crown Authorities under section 135 of the Act. The majority of the Crown land under the control of the Secretary of State for Transport will not be acquired; its use for the scheme will be the subject of an agreement pursuant to section 6 of the Highways Act 1980 between the County Council and the Secretary of State. However, there are some small areas of land that the Secretary of State cannot prove title to and these have been included in the DCO. It is not intended to acquire this land but simply to acquire any other interests in the land other than the Highways Agency interest.
- 1.16 The County Council has sought the consent of the Secretary of State for Defence in relation to the Crown Land under his control.

**Consents (section 12)**

- 1.17 Section 12 summarises the other consents that will, or may be, required in connection with the proposed development.

## 2.0 INTRODUCTION

- 2.1 This Statement of Reasons relates to an application made by Lancashire County Council ("the County Council") to the Infrastructure Planning Commission ("the Commission") under the Planning Act 2008 ("the Act") for The Lancashire County Council (Torrisholme to the M6 link (A683 Completion of Heysham to M6 Link Road)) Development Consent Order ("DCO") which would grant development consent to construct and maintain a new link road between the M6 motorway and the Morecambe – Heysham Peninsula referred to in this document as "the Scheme".
- 2.2 This statement has been prepared in compliance with Regulation 5(2) (h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 ("the APFP Regulations") and in accordance with the Department for Communities and Local Government guidance, 'Planning Act 2008: Guidance related to procedures for compulsory acquisition' ("Guidance").
- 2.3 This document is required because the DCO would authorise the compulsory acquisition of land and of new rights and existing rights over land described in paragraph 3.3 of this Statement.
- 2.4 In accordance with the APFP Regulations and Guidance the County Council has provided the following documents in relation to the compulsory acquisition powers sought as part of the application:-
- 2.4.1 This Statement of Reasons;
- 2.4.2 a statement to explain how the proposals contained in the DCO for compulsory acquisition will be funded ("the Funding Statement") (document reference: 11063/4.2);
- 2.4.3 plans showing the land that will be acquired ("Land Plans") (document reference: 11063/2.2);
- 2.4.4 a book of reference ("the Book of Reference") containing details of the land which would be acquired and the names and addresses of all those who may be affected by the proposed acquisition (document reference 11063/4.3).
- 2.5 The County Council has made an application to the Commission to construct a new dual carriageway, approximately 4.8 kilometres long, connecting the M6 to the Morecambe – Heysham Peninsula. A further description of the proposed development is in section 4 of this statement.
- 2.6 The proposed development lies wholly within England and is the construction of a highway for a purpose connected with a highway for which the Secretary of State is the highway authority, the latter highway being the M6 motorway.

As a result the proposed development is a nationally significant infrastructure project (“NSIP”) for the purposes of sections 14(1) (h) and 22 of 2008 Act. Accordingly, development consent must be obtained to authorise it, and any application for a development consent order must be made to the Infrastructure Planning Commission (“the Commission”) under section 37 of the Act.

- 2.7 The County Council considers that there is a compelling case in the public interest for the making of the DCO and the inclusion of compulsory acquisition powers to secure the outstanding land and property interests which are required to enable the Scheme to be carried out.
- 2.8 The land to which this statement relates is described in more detail in Section 3.

### **3.0 SCOPE OF ACQUISITION**

3.1 Section 122 of the 2008 Act provides that an Order granting development consent may include provision authorising the "compulsory acquisition of land" if certain conditions are met. Regulation 5(2) (h) of the APFP Regulations requires a statement of reasons for including the compulsory acquisition of land or an interest in or right over land in a DCO.

3.2 In addition to the outright acquisition of land or interests in or rights over land contained in article 20, other compulsory powers are sought in the DCO which similarly relate to land and which may or will interfere with property rights and interests. In each case, the owner of the land or rights in land would be entitled to compensation.

3.3 These additional powers referred to in paragraph 3.2 are the following:-

#### **Article 22 Compulsory Acquisition of Rights**

3.4 This article allows for rights in land to be acquired as well as the land itself and for the creation of new rights over land: –

3.4.1 Such rights as may be required to be acquired by the County Council over land which it is authorised to be acquired under Article 20;

3.4.2 Article 22 (2) which provides that for the land described in Schedule 9, the Council's powers of compulsory acquisition are limited to the acquisition of such rights, and the imposition of such restrictive covenants, as may be required for the purposes set out in the Schedule.

#### **Article 23 Private Rights**

3.5 Article 23 provides for the extinguishment of private rights:-

3.5.1 over land subject to compulsory outright acquisition (Article 23(1));

3.5.2 over land subject to the compulsory acquisition of or interference with rights or the imposition of restrictive covenants, to the extent that continuing the existing rights would be inconsistent with the right, interference or restrictive covenant acquired under Article 23;

3.5.3 over land belonging to the County Council and situated within the limits of the land to be acquired or used as shown on the Land Plans (Article 23(3)).

3.6 Article 23 (4) provides, as regards land of which the County Council may take temporary possession under article 28 or 29, that for so long as it remains in possession all private rights over the land will be suspended and unenforceable.

## **Article 27 Rights over or under streets**

- 3.7 Article 27 allows the County Council where required for the construction of the Scheme to use the subsoil or airspace under or over any street. The powers would not extend to a subway or underground building or to cellars or similar structures forming part of a building fronting the street (Article 27(3) but nonetheless would interfere with property rights.

## **Article 28 Temporary Use of Land for Carrying out the Authorised Development**

- 3.8 Article 28(1) would enable the County Council to take temporary possession of certain land to the exclusion of everyone else.
- 3.9 The land to which article 28(1) applies is the land specified in columns (1) and (2) of Schedule 11 to the DCO and any other Order land so long as the County Council has not made a declaration to vest the land in itself or entered the land following a notice of entry in advance of acquisition.
- 3.10 Article 28(1)(b) to (d) would enable the County Council to:-
- 3.10.1 remove buildings and vegetation from the land;
  - 3.10.2 construct temporary works (including accesses) and buildings on the land; and
  - 3.10.3 construct any permanent works specified in relation to that land in Column 3 to Schedule 11 or any other permanent works.
- 3.11 The period for temporary possession would be subject to time limits under article 28(3). Unless the owner of the land agreed, the County Council could not remain in possession: –
- 3.11.1 as regards any land specified in columns (1) and (2) of Schedule 11 to the DCO, for more than a year after completing that part of the Scheme specified in relation to that land in column (4) of Schedule 11; and
  - 3.11.2 as regards any land within the Order limits, for more than a year after completing the work for which temporary possession was taken (unless before the end of that period the County Council has made a vesting declaration or served notice of entry as mentioned in paragraph 3.9).
- 3.12 Article 28 (4) provides that before giving up possession of any land the County Council would be obliged to remove all temporary works and restore the land to the owner's reasonable satisfaction. This would not require the

replacement of a building removed under this article, the restoration of land on which permanent works have been constructed or the removal of ground strengthening works.

### **Article 29 Temporary use of land for maintaining the authorised development**

- 3.13 Article 29(1) would enable the County Council to take temporary possession of land at any time during the maintenance period i.e. five years from the date on which that part of the authorised development is open for use.
- 3.14 Article 29 applies to any land within the limits of land to be acquired or used as regards possession which is reasonably required for the purpose of maintaining the Scheme.
- 3.15 Article 29(1)(b) would allow the County Council to construct temporary works and buildings on the land, so far as reasonably necessary for maintenance works.
- 3.16 Article 29 would not apply to a house or a garden belonging to a house or any other occupied building (article 29(2)).
- 3.17 The powers would be subject to a time limit. The County Council may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the Scheme for which possession was taken.
- 3.18 Before giving up possession of land of which temporary possession has been taken under article 29 (5) the County Council would be required to remove all temporary works and restore the land to the owners reasonable satisfaction.
- 3.19 For the purposes of this Statement, all these additional powers are treated as compulsory acquisition and included in the expression "compulsory acquisition powers".

## **4.0 DESCRIPTION OF LAND SUBJECT TO COMPULSORY ACQUISITION**

- 4.1 This section describes the Land which is to be subject to the compulsory acquisition powers. The Land is shown on the land plan (document reference 11063/2.2) and the works and land uses are represented on the works plans (document reference: 11063/2.3). In addition to this Statement, short verbal descriptions of each numbered plot and details of ownership are in the book of reference (document reference: 11063/4.3).
- 4.2 A full description of the land together with key features and characteristics of the surrounding landscape can be found in Volume 1 of the Environmental Statement Part A (document reference 11063/6.1).

### **Location**

- 4.3 The Order Land covers an area to the north of Lancaster between the Morecambe and Heysham peninsula and the M6 motorway to the east. In particular the route of the scheme starts adjacent to White Lund Industrial Estate at the junction between the A683 (Phase 1 of the link) and Northgate, just to the west of the A683/A589 junction, near Torrisholme. The scheme passes on the northern fringe of the urban area of Lancaster and crosses to the south side of the River Lune on a new bridge just to the west side of the M6 motorway. The scheme includes four new slip roads to replace the existing Junction 34. These slip roads extend either side of the M6 with the southern limit being just north of Grimeshaw Lane Bridge over the motorway and the northern limit being some 800 m north of Foundry Lane Bridge over the motorway.
- 4.4 The land lies exclusively within the County of Lancashire.

### **Existing Land Use**

- 4.5 The land is predominantly agricultural land being mainly improved grassland but also includes some commercial land, part of the campus of Lancaster and Morecambe College, 2 houses and various agricultural buildings. There are some areas of open space land

### **Surrounding Area**

- 4.6 The surrounding land is predominantly agricultural land but there are residential areas especially at the western end of the scheme. At the far western end of the scheme the surrounding area is mainly industrial.
- 4.7 The alignment of the route crosses two distinct landscape character types and impinges slightly on a third type. The majority of the route is within the Low Coastal Drumlin landscape character type with the Urban Landscape Character type to the west and Drumlin Field Landscape Character type to the east.

## **5.0 GENERAL DESCRIPTION OF THE SCHEME**

- 5.1 At present the partly completed Heysham to M6 Link (A683), extends for 5.7 kilometres and is part single and part dual carriageway.
- 5.2 The proposed new road will be a 4.8 kilometre long, all-purpose two lane dual carriageway with a combined footway/cycleway alongside its westbound carriageway. The road will have two intermediate junctions and footway/cycleway connections with the existing local road and footpath network. The Scheme also includes four new slip roads at the M6 to create an improved Junction 34.
- 5.3 From the junction of the existing A683 at Morecambe Road the road will run generally north-eastwards around the north edge of Lancaster, with a crossing of the River Lune, to connect with the M6 motorway. The current sub-standard M6 Junction 34 located to the north-east of the city will be closed and replaced with a new Junction 34. The existing urban standard dual carriageway of the A683 Lancaster/Morecambe Bypass between Northgate and Morecambe Road will also be improved. This improved section will include a signal controlled "T" junction connection to Hadrian Road and the exit from McDonald's Restaurant.
- 5.4 The existing roundabout junction with the A589 at Morecambe Road will be remodelled to form a signalised crossroads. Morecambe Road either side of the new junction will be widened and improved.
- 5.5 From Morecambe Road the road will extend initially north-north-eastwards through Lancaster and Morecambe College campus. An underpass will be provided to maintain the connection between the college buildings, which will be situated to the south of the new road, and its north-western playing fields which will lie to the north of the new road. The road will then cross over the B5321 Lancaster Road/Torrisholme Road before curving to run north-eastwards. A bridge will carry the route over a realigned Lancaster Road/Torrisholme Road. The B5321 Lancaster Road/Torrisholme Road changes its name at its junction with Barley Cop Lane. North of Barley Cop Lane it is Lancaster Road and south of Barley Cop Lane it is Torrisholme Road. Barley Cop Lane will be diverted and will join Torrisholme Road at a new junction south of the existing junction.
- 5.6 Continuing north-eastwards the road will cross over the West Coast main line railway. The bridge formed will also span diversions of Powder House Lane and Folly Lane. Continuing north-eastwards a new bridge will carry the road across the Lancaster Canal, which is navigable at this point, before connecting with an intermediate roundabout junction linking to the A6 Lancaster Road to the north of the Beaumont area of Lancaster.
- 5.7 The link from the north side of this intermediate roundabout junction will connect to a signalised "T" junction on a re-alignment of A6 Lancaster Road.

- 5.8 The road will then continue north-eastwards crossing under diversions of Green Lane and Kellet Lane before connecting with a further intermediate junction located west of the M6 motorway. This junction will connect the road with Halton Road and a new northbound entry slip road as part of the replacement of M6 Junction 34.
- 5.9 From this intermediate junction the road will run southwards on a bridge over Halton Road then on a new bridge crossing over the River Lune before connecting with Caton Road at a signalised crossroads west of the M6 motorway.
- 5.10 The new M6 Junction 34 will incorporate signalised junctions, west and east of the M6 motorway. The M6 northbound exit slip road will connect with the signalised crossroads at Caton Road west of the M6 via a short section of county road between Caton Road and the signalised exit from the Park and Ride site. The M6 southbound exit and entry slip roads will connect with Caton Road at a signalised "T" junction east of the M6.
- 5.11 The DCO provides for the construction of new entry and exit slip roads for the northbound and southbound lanes of the M6 motorway at a new Junction 34, which will be special roads and which will be transferred to the Department for Transport on their completion.
- 5.12 In addition to the acquisition of land needed for the construction of the Scheme, the Order authorises the County Council to acquire or create rights over additional land which are set out Schedule 9 to the DCO.
- 5.13 An element of the associated development which the DCO seeks to authorise is the construction of a Park and Ride Facility at Croskells Farm, west of the M6 Motorway and south of existing Junction 34.
- 5.14 The Park and Ride site will be constructed in five parts:-
- 5.14.1 the Park and Ride facility itself consisting of northern and southern car parks;
  - 5.14.2 an at-grade signal-controlled junction at the end of the proposed M6 Junction 34 northbound exit slip road;
  - 5.14.3 a one-way link road between the end of the M6 northbound exit slip road and the A589/A683 Caton Road;
  - 5.14.4 an amended Croskells junction at the junction of the proposed Heysham to M6 Link Road and the A589/A683 Caton Road;
  - 5.14.5 a highway external to the Park and Ride site, running clockwise around the perimeter of the northern car park from the entrance to the exit and being two-way up to the entrance to the southern car park and thereafter one-way.

- 5.15 The site will provide 600 parking spaces and is located between the motorway and the proposed northbound exit slip road. Access to the Park and Ride site will be via the amended Crockkells junction for vehicles approaching from the north, west and east. For northbound vehicles from the M6 motorway access will be via an auxiliary lane on the link road between the end of the M6 northbound exit slip road and the A589/A683 Caton Road and will connect to the amended Crockkells junction access. There will be only one exit route from the Park and Ride site, through the signalised "T" junction at the end of the proposed M6 northbound exit slip road.
- 5.16 The Park and Ride facility will function as public transport measure and an element of a package of complementary measures that will be implemented as part of the construction of the Scheme. The Scheme will reduce traffic flows along Caton Road towards Lancaster and enable the County Council to provide an in-bound bus lane along part of Caton Road. It will satisfy two of the objectives of the scheme in that it will, by relieving congestion on Caton Road and on the north side of the city centre, create further opportunities for the enhancement of sustainable travel modes and that it will facilitate the commercial (retail and tourist) regeneration of the city centre.
- 5.17 The Park and Ride Scheme is designed to accommodate motorists travelling from the M6 Motorway and other major routes heading for the centre of Lancaster. It is intended that the site will be open from 7:00 am to 7:00 pm, Monday to Saturday with a bus service frequency of 8 minutes during peak times. It is estimated that during the morning peak period approximately 40% of the daily total of private cars attracted to the site will use the site as part of the journey to work trip. The remaining 60% are expected to be attracted to the site during the off-peak period for a variety of purposes including employment, retail and leisure. The Park and Ride proposals will reduce the likelihood of congestion on the new road, as a complementary measure to other transport proposals, encourage a positive image of public transport. They will serve to increase public confidence in good quality reliable public transport services and act as a catalyst in increasing the use of other mainstream public transport services.
- 5.18 As the site is approximately 3 km from the centre of Lancaster city and close to an attractive cycle route along the River Lune, cycling will be a realistic alternative to the private car. During peak periods, it may be quicker to cycle into Lancaster city centre rather than driving by car. Some car drivers may therefore wish to use the site to park and then cycle to the city. Cycle storage will be provided to support cycling from the site.
- 5.19 Cycle crossing facilities will be included in the traffic signal controlled junction on Caton Road at the end of the link road from the M6 northbound exit slip road to provide access to the Lune Valley Ramble Cycleway/Footway "Millennium Cycleway".

## 6.0 PURPOSE OF SEEKING COMPULSORY ACQUISITION

- 6.1 The purpose of the acquisition powers is to enable the County Council to construct the new road and associated development that is generally described in section 5.
- 6.2 The specific purposes for which each parcel of Land subject to compulsory acquisition is required are set out in the table below. This uses the parcel numbers shown on the land plan and used in the Book of Reference, and the works numbers shown on the works plan and set out in Schedule 1 to the Order. Table 1 should be read in conjunction with and by reference to those documents.
- 6.3 Land in which new rights may be acquired or created is set out at Schedule 9 to the DCO, and land subject to powers of temporary possession is set out at Schedule 11 to the DCO.

**TABLE 1**

<b>ACQUISITION OF LAND</b>	
<b>No. on plan</b>	<b>Purpose for which land may be acquired</b>
1-7 12-20, 23-28, 30, 32-36, 45, 46, 51, 53-55, 57-59, 62-65, 68, 70, 73(part), 75, 77, 79, 81, 83, 84, 86-88, 89b, 90-92, 97, 101, 111, 114, 117(part), 119, 123, 124, 126, 137(part), 138, 173, 179, 187, 188, 191, 195, 198-202, 204-206, 208-210, 213-216, 219, 221, 223, 224, 225, 226(part), 229, 230, 235(part), 244(part), 245-247, 248(part), 249-260, 265, 270, 272(part), 272a, 272b, 272c, 272d, , 274, 276, 281, 284, 286, 288.	Work No 1 - To construct the Authorised Development
248 (part)	Work No 2 – To Construct the Park and Ride facility
174, 178	Work No 3 – To Construct the Valley Meadow habitat creation area
137 (part)	Work No 9 – construction of Beaumont Gate Occupation Bridge
235 (part) and 244 (part)	Work No 10 - creation of Croskells habitat creation area
248 (part)	Work No 11 - creation of Long Bank Wood habitat creation area
73 (part)	Work No 12 - creation of Torrisholme habitat creation area

117 (part)	Work No 13 - creation of Beaumont Junction habitat creation area
226 (part)	Work No 14 - creation of the Lune habitat creation area
273	Work No 15 - creation of the Bulk Green habitat creation area
272 (part)	Work No 16 - creation of Long Bank Wood habitat creation area

6.4 Table 1 lists all the Land that is to be acquired outright. The purpose for acquiring the land referred to in Table 1 is to enable the County Council to construct on that Land the permanent works and to do the other things specified in Table 1, comprised in the Scheme.

6.5 Schedule 9 lists the Land over which specific rights are to be acquired or created. The rights to be acquired or created are necessary for the purposes of constructing the works, to carry out construction and maintenance thereafter.

6.6 Schedule 11 lists the Land of which the County Council requires to take temporary possession. The specific purposes for which this Land will be used are stated in the schedule. The purpose of using such land is to provide essential works sites, compounds, and storage areas, working space to install the new Slynedales Culvert and to carry out diversion works to a National Grid gas pipeline. The use of this land is essential to the construction works that form part of the development.

6.7 The specific purposes of the additional acquisition powers described in paragraph 3.3 are as follows:-

6.7.1 article 23 (private rights) ensures that existing private rights over so much of the land that is subject to outright acquisition under article 20 or acquisition of rights under article 22 are extinguished or suspended so as not to interfere with the construction and operation of the Scheme but such private rights will continue if the County Council decides that they can be exercised without interfering with the Scheme;

6.7.2 article 27 (rights over or under streets) would facilitate construction by authorising the use of the subsoil or airspace over any street;

6.7.3 article 28 ( temporary use of land for carrying out the authorised development ) ensures that appropriate work sites, working space and means of access will be available for use during the construction period and provides space for mitigation and any other permanent works;

6.7.4 article 29 (temporary use of land for maintaining the authorised development) ensures that the land is available for maintenance works during the five year maintenance period after construction.

## **7.0 JUSTIFICATION FOR THE USE OF POWERS OF COMPULSORY ACQUISITION.**

### **The matters to which the decision maker must have regard**

- 7.1 Section 122 of the Act provides that a DCO that includes compulsory acquisition powers may be granted only if the conditions in sections 122(2) and 122 (3) of the Act are met. The conditions are:-
- 7.1.1 at section 122(2), that the land is required for the development to which the DCO relates, or is required to facilitate or is incidental to the development, or is replacement land that is to be given in exchange under sections 131 and 132 of the Act; and
  - 7.1.2 at section 122(3), that there is a compelling case in the public interest for inclusion of powers of compulsory acquisition in the DCO. The decision maker must be persuaded that there is compelling evidence that the public benefits derived from the compulsory acquisition will outweigh the private loss suffered by those whose land is to be acquired.
- 7.2 In respect of the section 122(2) condition, the Guidance makes it clear at (paragraph 23 and following) that the decision maker must be in no doubt as to the purposes for which any land is to be compulsorily acquired. In particular:-
- 7.2.1 in respect of land required for a project to which the development consent relates, the promoter must be able to demonstrate that the land is needed and the decision maker must be satisfied that the land to be acquired is no more than is reasonably required for the purpose of the development;
  - 7.2.2 in respect of land required to facilitate or land incidental to the proposed development, the decision maker must be satisfied that the land to be taken is no more than is reasonably necessary for facilitating or incidental to the purpose and is proportionate; and
  - 7.2.3 in respect of land that is replacement land which is to be given in exchange under sections 131 and 132 of the Act, paragraph 26 of the Guidance states that the decision maker will wish to be persuaded that the proposed compulsory acquisition is needed for replacement land and that no more land is being taken than is reasonably necessary for that purpose and proportionate.
- 7.3 In respect of the section 122(3) condition, the Guidance makes it clear at paragraph 27 that the decision maker must be satisfied that there is a

compelling case in the public interest for the land to be acquired compulsorily. The public benefit must outweigh the private loss.

7.4 Paragraphs 20 to 22 of the Guidance set out a number of general considerations that the promoter must demonstrate to the satisfaction of the decision maker in respect of justifying an order authorising compulsory acquisition. These are as follows:

7.4.1 that all reasonable alternatives to compulsory acquisition (including modifications to the development) have been explored;

7.4.2 that the proposed interference with the rights of those with an interest in the Order Land is for a legitimate purpose and is necessary and proportionate;

7.4.3 that the promoter has a clear idea of how the land which it is proposing to acquire will be used;

7.4.4 that there is a reasonable prospect of the requisite funds becoming available; and

7.4.5 that the purposes for which such powers are included are legitimate and sufficiently justify interfering with the human rights of those with an interest in the land affected.

**Requirement for the Order Land (section 122 (2))**

7.5 This section sets out the factors that the County Council consider demonstrates that the conditions in section 122, and the considerations set out in the Guidance are satisfied.

7.6 As described in detail in Section 4 above, the land is required (or is incidental to) the purposes of DCO. Without the land the proposed scheme cannot take place. The location of the works on the works plan demonstrates that the land on the land plan is needed to construct the scheme. The need to ensure that the development can be delivered requires the acquisition of a number of property interests in so much of the land as is in third party ownership and a means of overriding existing rights and interests in or over land together with the creation of new rights over land.

7.7 As explained in detail in Section 4 of the Environmental Statement Volume 1 Part A (document reference: 11063/6.1) and summarised below, the County Council has explored alternative routes to the Scheme. However, the alternative routes were not considered suitable and in any event would not obviate the need for compulsory acquisition. The land that is proposed to be acquired for the scheme is no more than the minimum needed for it to occupy and for its construction, mitigation and ongoing maintenance.

- 7.8 The historic City of Lancaster lies on the south-east bank of the River Lune. To the west of the river are the towns of Morecambe and Heysham on a peninsula. The peninsula is enclosed anticlockwise from the north by Morecambe Bay, the River Lune and the West Coast Main Railway Line. The peninsula is nearly 4,000 hectares in area with a population of over 50,000.
- 7.9 The M6 motorway is located immediately to the east of Lancaster. The motorway provides a strategic road link to the North West and the rest of England and Scotland.
- 7.10 Lancaster is served by two motorway junctions, Junction 33 to the south and Junction 34 to the north. Junction 34 is sub-standard and was designed in 1960 as an interim measure to allow emergency vehicles access to the M6 motorway. Since that date there have been small improvements, but the northbound entry slip road which connects with the M6 motorway just before the M6 bridge over the River Lune currently has no hard shoulder and therefore has little scope for improvement.
- 7.11 The A6 runs north/south through Lancaster and connects to the M6 at Junction 33. It runs parallel to the motorway and forms part of three one-way linked gyratory systems in Lancaster. It crosses the River Lune on the only two road bridges crossing the River Lune to the west of the M6 motorway. The A6 therefore provides connections to the north and south of Lancaster and serves a local and regional function. It is predominantly of single carriageway standard, and although much of the route is rural in character, it passes through the centre of Lancaster where traffic experiences considerable congestion and consequential delay. It also passes through other towns in the region and the cumulative effect is to impact on the reliability and performance of the route.
- 7.12 The existing route from the Port of Heysham to the M6 motorway is also often congested and subject to traffic delays. The A589 from the Port of Heysham passes through Heysham itself and runs along the sea front at Morecambe. Towards the northern end of the Morecambe seafront the A589 turns inland to join the A683 close to the boundary of Morecambe at the roundabout junction with the A683 Lancaster/Morecambe bypass.
- 7.13 The A683 links Heysham and Morecambe with Lancaster, the M6 motorway at Junction 34 and areas to the east of the motorway. The first section of the A683 is Phase 1 of the Heysham to M6 Link (Lancaster/Morecambe bypass). It is mainly a wide single carriageway all purpose road with a short length of urban dual carriageway where it passes through White Lund Trading Estate and Retail Park. The dual carriageway ends at Morecambe Road at its roundabout junction with the A589.
- 7.14 The A683 then continues predominantly in single carriageway and crosses the A6 in Lancaster. There is a break in its continuity where it joins the A6 north of the River Lune and then continues south of the river. It runs north-east out of Lancaster parallel to the River Lune to connect to the M6 motorway at

Junction 34 and areas to the east of the motorway. The majority of the route is urban in nature passing through residential, commercial and industrial areas.

- 7.15 A further connection from the coast to the A6 is provided by the A5105 coastal road which commences at the north end of the Morecambe promenade where the A589 turns inland. It then runs parallel to the coast passing over the West Coast Main Line at Hest Bank before heading inland to join the A6 near Bolton-le-Sands. It is predominantly single carriageway and has an urban character in Heysham and Morecambe and a rural character north of Morecambe.
- 7.16 Because of the unpredictability of journey times in the Lancaster area, traffic from the Lancaster area often travels north along the A5105 and the A6 to Junction 35 of the M6 motorway, some four miles north of Lancaster and in the opposite direction on its return, in order to avoid Lancaster and its associated traffic difficulties, thereby adding to journey time and distance.
- 7.17 Three other routes cross the West Coast Main Line railway between the A683 and A5105 and connect to the A6. These are all minor roads with height restrictions and poor alignments.
- 7.18 The poor quality of transport routes described above has an impact on economic development within the Region. As a result, the provision of a new route connecting the coastal areas to the M6 has long been a priority for the County Council. Indeed, as long ago as 1949, a link to the Morecambe-Heysham peninsula from what is now the M6 motorway was included in the "Road Plan for Lancashire" published by the then County Council. This identified a route extending westwards from a junction on a north-south bypass of Lancaster (the future Lancaster bypass which became the M6 motorway) to the north of the River Lune, north-west of Halton. The route extended around the north of Lancaster to a junction with Morecambe Road near Torrisholme.
- 7.19 The 1962 Lancashire Development Plan also identified a Morecambe Link Road in the Lancaster, Morecambe and Heysham Town Map. This Link Road was proposed to extend along a corridor north-eastwards from Morecambe Road to the west of the Lancaster and Morecambe College before turning eastwards to the north-east of Torrisholme to connect with the Lancaster bypass (the future M6) at a junction north of the River Lune. Subsequently Lancaster City Council protected a corridor of land between Morecambe Road and Torrisholme Road through what are now Lancaster and Morecambe College grounds and beyond. A plan of a "Corridor of Protection for Highway" was produced by the County Council for blight purposes. As a consequence, the County Council acquired areas of land south of Torrisholme Road in 1966 and 1974 as they lay within the protected corridor.

- 7.20 In 1985 a scheme identification study examined the possibility of a Western Route option. This was subsequently selected as the basis for a new route to be taken forward in the Lancashire Structure Plan 1986-1996 which identified the Lancaster/Morecambe Bypass (Phase 1 of Heysham to M6 link) as an improvement to the inter-urban road network to be carried out in the period beyond 1990.
- 7.21 In 1992 construction started on the 5.7 km Lancaster/Morecambe Bypass between Trumacar Lane, Heysham and Morecambe Road near Torrisholme and the Bypass was opened to traffic in July 1994.
- 7.22 In January/February 1993 proposals for a route to the west of Lancaster were exhibited at a public consultation. As a result of comments received, the exhibited Western Route scheme was modified and then approved by the County Council in 1994 and protected for planning purposes.
- 7.23 In May 1995 the Lancashire Structure Plan 1991-2006, which included the approved Lancaster Western Bypass, underwent an "Examination in Public". The report issued in September 1995 by the Panel undertaking the examination recommended that the Lancaster Western Bypass be deleted from the Structure Plan because of its potential visual and environmental impacts, and the possibility of a northern bypass and a new or improved junction with the M6 be investigated
- 7.24 In October 1997 the County Council undertook public consultation into three proposed routes, two to the west of Lancaster (Green and Blue Routes) and one to the north of the City (Orange Route). The Orange Route is broadly the same route as that now proposed in the Scheme. The consultation and a subsequent survey in January 1998 indicated widespread support for a road link to the M6 but opinions were divided on the route choice. In March 1998, the County Council selected the western (Green) Route.
- 7.25 During 1998 and 1999 the Western Bypass (Green Route) was considered at the Lancaster Local Plan Inquiry. The inspector concluded that the benefits of the Green Route were not clear and, as the route would cause significant damage to the environment, he recommended that the Western Bypass should be deleted from the Local Plan because the benefits that would accrue were not clear cut and they were outweighed by significant damage to the environment. Subsequently Lancaster City Council resolved not to accept the Inspector's recommendation for a number of reasons. Firstly, changes were put forward to the proposals by the County Council subsequent to the Local Plan inquiry which reduced the road from a dual carriageway to a wide single lane carriageway and it also avoided an ethylene pipeline which lay in the path of the route. These changes had the effect of altering the balance of costs and benefits in favour of the Green Route. Secondly, there were changes in circumstances giving rise to a reasonable degree of certainty that the Green Route could be constructed within the plan period and finally there was a need to ensure consistency between the Local Plan, Structure Plan and Regional Planning Guidance.

- 7.26 In 2001 the Lancashire Local Transport Plan 2001/2-2005/6 was submitted to the Government for approval with the Western Bypass (Green Route), including the changes outlined above, as the major scheme bid. The Government's response, whilst accepting that completing the Heysham to M6 Link could be a way forward in tackling Lancaster's various traffic problems, questioned the suitability of the route and restated the doubts raised by the Inspector during the earlier public inquiry process.
- 7.27 Between June and September 2001 the County Council undertook public consultation including commissioning a MORI report into the two alternative routes: the Western (Green Route) and the Northern (Orange) Route. In December 2001, following the conclusion of that consultation, the County Council Cabinet resolved that the Heysham/M6 Link should remain the County's top priority scheme for road construction in Lancashire. It further resolved that detailed environmental impact studies on both the Western and Northern Routes be undertaken to determine the viability of the two route options and that, if it proved to be impossible to proceed with the Western Route, the County Council should pursue the Northern Route.
- 7.28 Following the completion of these environmental impact studies, the Cabinet of the County Council on 2 September 2004 selected the Northern (Orange) Route as the preferred route to complete the Heysham to M6 Link, but without the provision of the Luneside Link Bridge. The decision was based on a number of environmental and technical reasons and in particular a nature conservation and ecological assessment taken by ADAS Consulting Limited which advised that the availability of an alternative route, that is, the Northern Route, would make compliance with EU and UK nature conservation policies extremely difficult if a decision was taken to proceed with the Western Route. The decision was also supported by advice from leading counsel.
- 7.29 In May 2005 public exhibitions displaying the approved Northern (Orange) Route held at five different locations. Changes were made to the proposals as a result of the May exhibitions in order to reduce the level of the road and also to introduce measures to mitigate any noise or visual impacts east of Torrisholme Bridge. The revised proposals were exhibited in October 2005 at Torrisholme Methodist Church.
- 7.30 The decision to adopt the Orange Route was therefore reached by the County Council following an extensive period of review and consultation to ensure that the Scheme followed the most appropriate route taking into account economic, environmental and operational considerations.
- 7.31 In July 2005 a Major Scheme Business Case was submitted to the Department for Transport as part of the Local Transport Plan bid for Central Government funding for the Road Scheme. The Major Scheme Business Case demonstrated the case for the Scheme in five aspects:-

- 7.31.1 **Strategic** - the Road Scheme is consistent with and will contribute to local, regional and national objectives in transport and other relevant areas;
- 7.31.2 **Appraisal and Value for Money** - the likely benefits when taking into account its disbenefits outweigh its likely costs;
- 7.31.3 **Delivery** - the Road Scheme will be delivered to time and budget in accordance with a clear project plan and in accordance with good governance and will involve consultation and engagement with stakeholders and incorporate a robust risk management plan;
- 7.31.4 **Financial** - the Road Scheme is based on sound costings and the County Council is able to meet its own contribution;
- 7.31.5 **Commercial** - the Road Scheme incorporates a sound procurement strategy.
- 7.32 The Department for Transport operates a three stage approval process for local authority major schemes comprising Programme Entry, Conditional Approval and Full Approval. Programme Entry was granted for the Road Scheme on 28 January 2009. However, on 10 June 2010 as part of the Government's spending review the Programme Entry was suspended pending the review. In November 2010, the Department for Transport invited the County Council to submit a Best and Final Funding bid ("BAFB"). The BAFB was duly submitted and on 4 February 2011 the Department for Transport reconfirmed Programme Entry status. The basis of the Programme Entry award was that the Department of Transport funding was subject to the completion of the legal processes and the award of Full Approval.
- 7.33 Conditional Approval is usually granted once statutory powers are in place and Full Approval once tenders have been returned and a preferred bidder selected and the cost of the contract works known. However, in the County Council's case, the contract cost will be known in advance of the statutory procedures being completed, so there will be a combined Conditional and Full approval
- 7.34 The Park and Ride facility that is an integral part of the scheme will be funded jointly by the Department for Transport and the County Council.
- 7.35 Compulsory acquisition powers serve the important function of ensuring that the compensation paid to landowners and others affected represents a fair market price. This benefits both the County Council as the acquiring authority and all those to whom compensation may be payable.
- 7.36 Reference should be made to the Funding Statement (document reference 11063/4.2) that accompanies the application provided under Regulation 5(2)(h) of the APFP Regulations. This sets out that the capital funding costs

for the Scheme will be met jointly by the Department of Transport and the County Council.

## **8.0 NEGOTIATIONS WITH LANDOWNERS**

- 8.1 The Scheme boundary encloses 148.5 hectares. The Scheme requires the freehold acquisition of 101.5 hectares of land, the acquisition of permanent rights over 5.4 hectares and the acquisition of temporary rights over 24.7 hectares, a total of 131.6 hectares. In addition, there is just less than 17 hectares of existing highway within the Scheme boundary.
- 8.2 The Scheme includes the construction of new slip roads to the M6 Motorway. These will be special roads that will be constructed as part of an agreement with the Department for Transport and will ultimately be transferred to the Department for Transport under the DCO.
- 8.3 Approximately one hectare (Plots 57 to 59 and 62 to 65), being land south of Torrisholme Road was acquired by the County Council in 1966 and 1974 when the northern route was first protected. In 2008 and 2009 a further 17 hectares were purchased by agreement which included Croskells and Cottam's Farm. Cottam's Farmhouse and Woodend Bungalow at Cottam's Farm are the only two dwellings which will be demolished as part of the Scheme. In 2010 two further properties were purchased by agreement; Shefferlands (dwelling with 2.04 hectares of land) and 179 Torrisholme Road (dwelling in 0.62 hectares of land). Neither dwelling will be demolished by the Scheme but some of the grounds of both properties will be used.
- 8.4 The property already acquired by the County Council is included within the DCO to ensure that no known or unknown rights exist over such land that could interfere with the Scheme.
- 8.5 All owners and occupiers with an interest in land have been approached to ask if they would be prepared to enter into negotiations with the County Council for the purchase of their interest. Detailed negotiations are taking place with a number of landowners and occupiers. However, the County Council has concluded that acquisition by agreement is unlikely to occur in all cases or in any event within sufficient time to ensure that the programme for the construction of the Scheme is met. There are also a few interests, for example where the owner is unknown, where it will not be possible to acquire the interest except by way of compulsory acquisition.
- 8.6 **Plot 1**
- Plot 1 comprises land to the rear of several industrial units on the White Lund Industrial Estate. The owners have been contacted to open negotiations for the acquisition of their land. The Owners have appointed a surveyor to represent them and negotiations are continuing. The County Council is also in touch with the lessees of the Plot.

**8.7 Plot 2**

The owner has been contacted to open negotiations and the owner has appointed a surveyor. The County Council has reduced the permanent land take to reduce the loss of frontage to the business.

**8.8 Plot 3**

This Plot forms part of the frontage to a car dealership. The owners and the car dealership which has a leasehold interest have been contacted to open negotiations for the acquisition of their interests. Initial discussions have been undertaken with the car dealership concerning possible accommodation works to be undertaken by the County Council, in particular, regarding new signage.

**8.9 Plot 5**

The owner and occupier of this Plot have been contacted to negotiate the acquisition of the land required for the Scheme and initial discussions are being held with the owner.

**8.10 Plot 7**

The owner /occupier of this Plot have been contacted to negotiate the acquisition of the land required for the Scheme and discussions have been held on access and security issues which will be the subject of accommodation works.

**8.11 Plots 9 to 12, 15, 24, 69, 168, 171 to 173, 227 to 234, 239, 242, and 243,**

These Plots are owned by Lancaster City Council and part is open space. Plots 15, 24, 69, 172 and 173 are open space and Plots 22, 29, 31, and 72 are to be acquired as exchange land. The City Council has been approached by the County Council to negotiate the acquisition of its land interests required for the Scheme. This includes an oversail agreement to enable the County Council to construct the Lune West Bridge over the Lune Millennium Cycle Track adjacent to the River Lune. The new bridge will not interfere with use of the Lune Millennium Cycle Track.

**8.12 Plot 13, 14, 18, 26 and 27**

This land is open space and the owners have been contacted to open negotiations for the acquisition of the land. Exchange land (Plots 21 and 66) will be provided which will be managed by the County Council if it has acquired the freehold of the open space before the start of the scheme.

**8.13 Plot 23**

This Plot is divided from the remainder of 2 Hadrian Road by Hadrian Road. The owners having been approached to open negotiations to acquire their interest in the land have asked the County Council to put forward an offer for the land.

#### **8.14 Plots 34, 35 and 37**

These Plots are owned and occupied by McDonald's Restaurants Limited. The County Council's proposals for the Scheme will amend the current access and egress arrangements to the McDonald's restaurant site. Proposals for the amended layout and alternative car parking arrangements within the site are being discussed with McDonalds Restaurants Limited and will be undertaken as accommodation works.

#### **8.15 Plots 39 to 48, 60 and 61**

These Plots are owned and occupied by Lancaster and Morecambe College. At the public inquiry into the planning application for the Scheme in 2007, the County Council entered into a Unilateral Undertaking pursuant to section 106 of the Town and Country Planning Act 1990 to carry out works at Lancaster and Morecambe College with a view to mitigating the effects of the Scheme on the College. Two of the College's playing pitches and a training area which are located to the north-west of the campus will be affected by the Scheme. This area will be separated from the main campus by the new road but an underpass beneath the Classified Road, will maintain access. The Scheme will also take part of the land currently used for playing fields but the pitches themselves can be retained by re-orientating them and improving the drainage on the field. The County Council has undertaken to carry out works to provide drainage and re-orientate the playing areas in agreement with the College and Sport England. The College has additional playing pitches one of which lies to the south-west of the campus and which, whilst not directly affected by the Scheme, has already had its drainage and playing surface improved by the County Council. The County Council handed back the improved playing field to the College in September 2009 so that it will be able to be used to its maximum potential whilst works are been carried out to the other playing pitches.

The County Council is also in negotiation with the College and its agent concerning noise mitigation measures, and in relation to the acquisition of the College's land interests required for the Scheme. As the County Council now own land adjacent to the college it is also intended to provide replacement car parking for that lost to the scheme and to re-organise the adjoining existing car parking to unify the area. Further discussions also centre on the County Council replacing one of the through routes through the college campus. Further information on the intentions are contained in the Proposed Heads of Terms for a development consent obligation relating to the college (document reference 11063/9.4)

#### **8.16 Plot 54**

The owner of this Plot has been contacted to negotiate the acquisition of the land required for the Scheme and has indicated that he would like the County Council to purchase all his land interests in this area as the remaining land is not capable of beneficial use on its own.

**8.17 Plot 55 and 56**

These Plots are owned by United Utilities Water plc. The land required for the Scheme is part of the grounds on which stands a meter house. Discussions have been taken place with United Utilities to seek to minimise disturbance to the use of the meter house.

**8.18 Plots 57 to 59 and 62 to 65**

The County Council already owns the freehold of these Plots. Plots 57 to 59 and 64 and 65 are the subject of a short term lease outside the protection of the Landlord and Tenant Act 1954 granted to Broadoak Leisure Buildings which will determine on 5 January 2012. The tenants are looking for alternative premises.

**8.19 Plots 66 to 68, 70 to 74, 78 and 79**

The owners of these Plots are trustees for the Clark Estates. The land is primarily grazing and pasture land. The Trust has appointed a surveyor to act on its behalf and negotiations have been entered into to acquire the Trust's interest in the Plots. The tenants of the Plots have also been contacted with an offer to acquire their interests in the Plots and the Trust has been asked by the County Council to provide full details of those tenants' interests. One of the tenants also owns Plots 75 to 77, 80 to 82 and 87.

**8.20 Plots 75 to 77, 80 to 82 and 87**

The owners of these Plots are also tenants of Plots 70 to 74, 78, 79, and 86, 87 89 to 91 and 89a and 89b and they have appointed a surveyor to act on their behalf in relation to the acquisition of all their interests. The County Council is in negotiation with the surveyor.

**8.21 Plots 83 to 85**

The owner of this Plot has appointed a surveyor to act on his behalf in relation to negotiations with the County Council.

**8.22 Plots 86, 89, 89a, 89b, 90, 91, 122 to 124**

These Plots are owned by the executors of the Estate of Richard Sowerby (Deceased) and are grassland. There are two tenants who also own Plots 75 to 77, 80 to 82 and 87 and 97 to 100, 105, 107, 117 and 118 respectively. The four executors have appointed a surveyor. The tenants have also appointed a surveyor to negotiate the sale of their land interests. The surveyors have been asked by the County Council to provide full details of the tenants' interests.

### **8.23 Plot 88**

This Plot is owned by the Trustees of J M Fish 1997 Settlement. The three trustees have appointed a surveyor to negotiate on behalf of the trustees and the beneficiaries. The tenants also own Plots 75 to 77, 80 to 82 and 87 The Trustees' surveyor and the tenants' surveyor have been asked to provide full details of the tenants' interests.

### **8.24 Plots 92 to 96**

These Plots comprise land adjoining and over the West Coast Main Line and are owned by Network Rail Infrastructure Limited. As well as seeking to acquire a small area of land the County Council is seeking to enter into an oversail agreement with Network Rail in relation to Plots 93 to 96. To this end the County Council and Network Rail have reached an agreement (Document Reference No 9.6). Also, Network Rail has appointed a surveyor and negotiations have commenced.

### **8.25 Plots 97 to 100, 105, 107, 117 and 118**

These Plots are farm land attached to Hammerton Hall Farm and the owner is also the tenant of Plots 122 to 124. He has appointed a surveyor to negotiate the sale of his land interests. Hammerton Hall Farm is divided by the Scheme but access is maintained to all land from existing public highways and a new farm underpass adjacent to the east bank of the Lancaster Canal.

### **8.26 Plot 101,102, 104, 106, 108, 110 to 113 and 140 to 142**

These Plots are part of the Lancaster Canal and adjoining towpaths. They are required to enable the Scheme to be constructed over the canal and for Plots 140 to 142, to install the new Slynedales Culvert beneath the bed of the canal near Green Lane, Skerton. Negotiations have been entered into with British Waterways Board for the acquisition of both its land interests and rights to enable the County Council to construct a temporary bridge over the canal in addition to rights to construct the new Milestone Bridge, the Slynedales culvert and to undertake future inspection and maintenance. The County Council is also in negotiation with the occupiers of the land adjoining the canal. Discussions are on-going with British Waterways.

### **8.27 Plots 119 to 121, 125 to 139, 174 to 176 and 178**

The owner of these Plots is a father and son partnership and they have appointed the same surveyor to represent them. Plots 174 and 178, some 7 hectares, are required to enable the County Council to provide mitigation measures to enhance the habitat and protect and promote suitable conditions for the expansion of the area colonised by the Pink Wax Cap mushroom. The presence of this fungus is possibly due to the current farming system used by the owner who is an organic farmer. These works will also including opening up a culverted watercourse across these plots. Accordingly the County Council proposes to enter into a management agreement with the owner to manage this area. Part of the accommodation works include a new

occupation bridge over the link road with access tracks to link land both north and south of the link road.

**8.28 Plots 179 to 184, 204, 206 to 208**

The four trustees who manage these Plots have been contacted by the County Council and have appointed a surveyor. The tenant who also owns Plots 209 to 213 has also been approached by the County Council to open negotiations for the acquisition of his interest in these Plots and the Plots he owns. He has also appointed a surveyor. Preliminary discussions have been undertaken with regard to accommodation works including provision of gates and hedges. The trustees are particularly interested in the ecological mitigation works planned as part of the Scheme, as the Trusts were established to promote good environmental management. Part of the land (Plot 207) is to be used for soil storage.

**8.29 Plots 185,194,195 to 197**

The owners of these Plots are also the occupiers of Plot 198, the freehold of which has already been acquired by the County Council. Ongoing discussions have already been undertaken with the owners and their surveyor concerning the acquisition of their land interest and accommodation works.

**8.30 Plot 186, to 189**

The owner of these Plots has appointed a surveyor and a solicitor to act on his behalf. In addition to the acquisition of the owner's land interests, the County Council is discussing with him the possibility of entering into an ecological management agreement over approximately 0.5 hectares of woodland which lies outside the boundary of the Scheme. This woodland adjoins the Scheme at the diversion of Howgill Brook and is currently unmanaged. The County Council's ecological advisors have suggested that whilst the land is already a valuable habitat in isolation, it could be improved and expanded in parallel with habitat improvement and creation works proposed for this section of the Scheme.

**8.31 Plot 190, 191, 192, 192a, 192b and 19**

Both the owner and occupier have appointed the same surveyor to negotiate the acquisition of their land interests. The surveyor has been asked by the County Council to provide full details of the tenant's interests. Accommodation works will include a new water supply to land south of the link road.

**8.32 Plot 199**

This plot has recently been sold, subject to contract, and the County Council will enter into negotiations with the new owner.

**8.33 Plot 201**

This plot has been purchased by the County Council and is now managed under a temporary mowing and grazing licence. The land not required for the scheme will be used for additional landscaping.

**8.34 Plot 205**

This Plot is approximately 40% of the owners' total land interest in this area which will leave less than 0.7 hectares of land available after the Scheme. The County Council has negotiated a purchase of the whole field, subject to confirmation of the DCO.

**8.35 Plots 209 to 214**

These Plots form part of Cote Farm which is occupied and farmed by the Cote Farm Partnership. Initial discussions have been undertaken with the Partnership concerning accommodation works. The Partnership has appointed a surveyor.

**8.36 Plots 216 to 219, 224 to 226**

These Plots are owned by the Crown and are in use by the Secretary of State for Defence. The County Council has sought the consent of the Secretary of State for Defence to include his interest in the land in the Order in accordance with Section 135 of the Planning Act 2008. The Secretary of State has indicated that part of Plot 226 may be required occasionally for bridge landing exercises. Provision for these exercises can be accommodated in the Scheme as the land identified by the Secretary of State is land which is required solely for access and maintenance purposes for the new bridge over the River Lune.

**8.37 Plots 221 to 223**

These Plots comprise part of the bed and banks of the River Lune; Plot 222 is required to provide working airspace to construct and maintain a new bridge and piers over the River Lune and Plots 221 and 223 for the construction of the piers and for the provision of scour protection measures around the piers. The land is owned by Lansil Sports and Social Club. The Trustees of the Social Club have been contacted to open negotiations for the acquisition of the Club's interest. Accommodation works have been discussed including the provision of new fishing pegs and platforms. An off-site spawning pond is also to be restored (Plot 243).

**8.38 Plots 235, 236, 238, 240 and 241**

These Plots are rough land adjacent to the grounds to the Lancaster Holiday Inn Hotel. The owners have been contacted to open negotiations for the acquisition of their interests and have appointed an external surveyor. Accommodation works have been discussed with the owners and Lancaster Holiday Inn.

**8.39 Plots 244, 247 to 250**

The freehold interests in these Plots were purchased by the County Council on 23 April 2009 but they remain within the Book of Reference to ensure that any remaining third party interests are also acquired. The occupiers of the Plots have short term agreements granted by the County Council. The occupiers of Woodend Bungalow and Croskells Farmhouse have licences to occupy and the occupier of Cottams Farm a Farm Business Tenancy which subject to negotiation will be renewed to terminate on 31 October 2012.

**8.40 Plots 262 to 266, 270**

Plots 262 to 266 form part of Hudson's Farm. There is an agricultural tenancy in favour of the owner's sister who trades as G R Bargh & Co. Both owner and tenant have appointed surveyors and the County Council has asked both surveyors for details of the tenancy. Initial discussions have also been held with the tenant and her agent on the question of access both to Hudson's Farm and in connection with land at Grimeshaw Lane. The Scheme includes works to resurface and/or reconstruct the access to Hudson's Farm. Access to the farmyard will be maintained throughout the construction period for the farm tenant and the two residential tenants who occupy Hudson's Farm Cottage and Hudson's Farm House. Neither dwelling will be directly affected by the Scheme.

**8.41 Plots 267 to 269**

These Plots are required for working space for construction works for the Scheme which will affect the access to Three Acres and Tarn View. Initial discussions with the owners have taken place. Access to the properties will be maintained throughout the construction period.

**8.42 Plot 271, 272, 275, 276**

The owner of these Plots has appointed a surveyor and is in discussions with the County Council concerning land acquisition and the replacement of the access track to his land. The access track currently leaves Caton Road adjacent to the existing M6 junction traffic lights and will be stopped up under the DCO. A new access track will be provided on his land parallel to the new motorway boundary.

**8.43 Plot 273**

The owner of this Plot has appointed a surveyor to negotiate the acquisition of his interests. There is also a telecommunications mast on the Plot. The telecommunications company is now in association with the company operating the mast north of Caton Road beside Hudson's Farm and is proposing to transfer its equipment to this mast.

**8.44 Plots 251 to 254, 256 to 258**

An offer to open negotiations for the acquisition of the owner's interest in the Plots has been made, and the County Council also proposes to rectify the boundary between the land already acquired by the County Council and the remainder of the land.

**8.45 Plot 260, 283 to 288,**

Both the owner and tenant have appointed the same surveyor to negotiate the acquisition of their interests. Negotiations are also taking place concerning the replacement of an access track, drainage and other accommodation works. Plots 283 to 288 are required in connection with the provision of new sign gantries on the M6 motorway.

**8.46 Plots 274, 277 and 280**

Plot 274 forms part of Moorside Farm used for growing maize and as grazing land. The owners and tenants have appointed surveyors. Discussions are being held as part of the negotiations to acquire the land required for the Scheme to ensure that the agricultural access is maintained during construction.

**8.47 Plots 275 & 276**

The County Council has been unable to trace the owners of the freehold of this land which is known as Grimeshaw Lane. Grimeshaw Lane provides access for the properties at Moorside Farm, Davies Farm and other farmland. Part of Grimeshaw Lane will be re-aligned as part of the Scheme. The County Council will ensure that either Grimeshaw Lane or an alternative access will be available to the properties served by Grimeshaw Lane throughout the construction period.

## 9.0 THE PLANNING POSITION

9.1 The purpose of the Lancaster Western Bypass (which was the forerunner of the Road Scheme), as outlined in The Lancashire Structure Plan 1986-1996 under Policy 46(6)(iii) was to improve the inter-urban road network, (paragraph 1.1.3 of the Structure Plan). Under Policy 47 of the Structure Plan such road schemes were expected to give the best results in term of:-

- economic return;
- giving a major impetus to the development prospects of strategic industrial sites, seaports, airports and areas designated for development;
- replacing or improving sections of road with very bad accident records;
- removing serious environmental problems caused by an excessive volume of through traffic;
- maximising the benefits of road improvements.

9.2 The Lancashire Structure Plan 1991-2006, adopted in February 1997, stated in paragraph 8.34.26 of Policy 34 that the purposes of the Heysham to M6 Link were to:-

- (i) *“contribute, as one of a number of measures, to solving the traffic problems of Lancaster and improving safety and environmental conditions there. The removal of much through traffic from the bridges over the River Lune will enable existing road space to be used more effectively with priority being given to buses, cyclists and pedestrians;*
- (ii) *provide a direct link for Morecambe/Heysham traffic (especially port and tourism traffic) to and from the M6 Motorway, thereby avoiding the existing conflict with local Lancaster-Morecambe traffic, facilitating the efficient transport of goods and assisting the regeneration and economic development of the Lancaster-Morecambe area and particularly Heysham.”*

9.3 In the Joint Lancashire Structure Plan 2001-2016, which was adopted March 2005 (the “JLSP”), under Policy 8: Strategic Road Network and Proposed Improvements, paragraph 6.2.11, it was stated, with regard to the purpose of the Heysham to M6 Link, that:-

*“The Scheme is seen as playing a key role in improving communications between Morecambe and Heysham and the M6 Motorway, including improved access to the Port of Heysham. Its construction will remove a significant volume of traffic from the River Lune bridges in Lancaster and create opportunities to enhance provision for pedestrians, cyclists and public transport in the centre of this historic city”.*

9.4 In addition, paragraph 6.2.11 of Policy 8 of the JLSP acknowledged the importance of the route in the north-west of England:-

*“The link between the M6 and the Port of Heysham is recognised in Regional Spatial Strategy as being of regional significance.” Regional Planning Guidance for the North West (RPG13), issued in March 2003, identifies in Policy T10, Table 10.2 Regionally Significant Transport Proposals that the purpose of the Scheme is to provide “an improved road link between Heysham and the M6”.*

- 9.5 The JLSP has now been substantially superseded by of the current Regional Spatial Strategy for the North West which now forms part of the statutory development plan and which contains reference to the Road Scheme being of regional significance. It will assist in the delivery of the economic objectives for Morecambe which is a Regional Priority Area and for the Port of Heysham, a Regional Gateway Port. Although the Regional Spatial Strategy is due to be abolished under the provisions of the Localism Act 2011, the evidence on which it was based is still sound.
- 9.6 On 14 December 2005 a planning application (ref 1/05/1584) was submitted to the County Council under the provisions of the Town and Country Planning General Regulations 1992. Following objections from and negotiations with statutory and non-statutory parties and planning officers, a revised planning application was submitted on 12 September 2006 which included various amendments designed to address a number of the concerns raised. This revised planning application forms the basis for the Road Scheme.
- 9.7 The County Council resolved to grant planning permission on 1 November 2006 but the Secretary of State for Communities and Local Government called in the planning application for her own determination.
- 9.8 A public local inquiry lasting five weeks was held in July and August 2007 and following consideration of the Inspector’s Report the Secretary of State for Communities and Local Government granted planning permission for the Road Scheme on 7 February 2008.
- 9.9 A legal challenge was lodged by an objector to the Scheme against the decision of the Secretary of State to grant planning permission. The challenge was heard in the High Court on 28 and 29 August 2008 and was dismissed.
- 9.10 A planning application (ref no. 01/08/0821) for the Park and Ride site at Cottams Farm south of Junction 34 of the M6 motorway was submitted on 26 June 2008. The planning application was for the construction of a park and ride facility with a total of 519 car parking spaces, including 52 designated disabled spaces, associated lighting and CCTV columns, landscaping, alterations to the Croskells junction and alterations to the M6 north bound exit slip road which had previously been approved as part of application ref.01/05/1584.
- 9.11 The proposed alterations to the M6 northbound exit slip road included an increase in the length of the slip road by some 80 metres and an increase in

the width of certain sections of the slip road to facilitate direct access from the slip road into the proposed Park and Ride site. The application also provided for the creation of two new access points to the Park and Ride site off the A683 Caton Road and an access road from the Park and Ride site into Croskells Farm. The proposals also included provision for landscaping works in and around the Park and Ride site and associated access/slip road.

- 9.12 An area of land to the west of the Park and Ride site was proposed for ecological mitigation including various planting works, grassland management and wetland creation operations in order to provide compensation for the habitats that would be lost as part of the development.
- 9.13 On 10 December 2008 the County Council resolved to grant planning permission subject to the completion of a planning obligation providing for landscaping and ecological works and management of land to the west of the Park and Ride site. The planning obligation was completed on 23 July 2009 and planning permission was granted on the same date.
- 9.14 On 25 March 2009 an application for planning permission reference no 01/09/0279 was submitted for works on 23 additional parcels of land to facilitate the development of the Road Scheme. The proposals for fifteen of the parcels involved minor changes to the sites subject to planning applications 01/05/1584 and 01/08/0821 and were designed to incorporate within the Road Scheme additional land for working space and provision of boundary hedges.
- 9.15 The proposals for the remaining parcels of land were as follows:-
  - 9.15.1 the erection of a ball stop fence at Lancaster and Morecambe College. The fence would measure 4 m high and consist of galvanised powder coated heavy duty weld mesh panels coloured dark green;
  - 9.15.2 the construction of a new farm access track at Beaumont Gate Farm, Slyne Road, Lancaster. The track would connect the farm buildings to the agricultural fields and the occupation bridge over the classified;
  - 9.15.3 the re-diversion of Howgill Brook to a route south of the original proposal under planning permission 01/05/1584;
  - 9.15.4 a reduction in the height of Halton Road West Retaining Wall by the inclusion of a wider cutting slope. This would result in a reduction in height of the retaining wall from 15 m on both sides to a wall sloping from north to south from a height of 5.25 m to 2.76 m on the eastern side of the road, and no retaining wall on the western side. The additional land would be required for the land to slope at 1:2.5 from the retaining wall and road level up to existing ground levels;

- 9.15.5 the removal of the retaining wall at Hudson's Farm, Caton to provide an embankment which would be landscaped as part of the Scheme. A 2.5 m timber close boarded noise attenuation fence at the boundary of Hudson's Farm would be constructed for noise attenuation and visual mitigation;
  - 9.15.6 the diversion of the Grimeshaw Lane access track and the provision of a hard shoulder approximately 5 m long and 3.3 m wide with a 1.5 m wide verge behind, and incorporating an embankment with a 1:2.5 slope;
  - 9.15.7 the provision of an access track on the eastern side of M6 motorway.
- 9.16 On 20 May 2009 the County Council resolved to grant planning permission for the additional works subject to the completion of a planning obligation for the management of all landscaping and mitigation works for a period of 20 years. The planning obligation was completed on 15 July 2009 and planning permission was granted on the same date.
- 9.17 On 19 June 2009 an application was submitted to vary condition 2 of planning permission 01/08/0821 to provide for an amended layout of the Park and Ride Scheme and allow for changes to the layout of the Park and Ride site. The changes were as follows:-
- 9.17.1 a reduction from 519 to 502 car parking spaces;
  - 9.17.2 the reduction of the northbound slip road at the new junction 34 of the M6 to two lanes and the Park and Ride junction to allow vehicles to exit only;
  - 9.17.3 reduction in the length of Long Bank Culvert;
  - 9.17.4 reduction in the length of Long Bank Wood retaining wall;
  - 9.17.5 provision of a gated access into the off-site ecological management area for maintenance purposes;
  - 9.17.6 simplification of bus operations within the Park and Ride site;
  - 9.17.7 amendments to the landscaping proposals;
  - 9.17.8 installation of cycle lockers to promote cycling.
- 9.18 On 12 August 2009 the County Council resolved to grant planning permission to vary condition 2 subject to a planning obligation for off-site ecological mitigation works. The planning obligation was completed on 28 September 2009 and the planning permission was issued on the same day.

- 9.19 Legal Orders which comprised of Compulsory Purchase, Side Roads, Connecting Roads, Section 106 and Transfer were published in autumn 2009. Following on from the Legal Orders being published there was to have been an inquiry to consider objections to the orders starting on 12 October 2010 but this was postponed by the government pending clarity on funding. Only 19 statutory objections were received to the orders, some of which were subsequently resolved. This postponement was brought about by a change of government after the general election held in May 2010. Work was suspended on the Scheme while the outcome of a spending review carried out by the Department for Transport (DfT) under instruction from the new coalition government was awaited.
- 9.20 In October 2010 the DfT announced that the completion of Heysham to M6 Link was included in the Supported Pool. The supported pool included schemes that the DfT would be prepared to fund subject to renegotiation of funding bids from Local Authorities. The inclusion of the Heysham to M6 link in the supported pool demonstrated that it had a high Benefit to Cost Ratio and hence it being supported along with only nine other schemes. Lancashire County Council was then invited to submit a best and final funding bid by the end of December 2010. This specified the scheme that the County Council will commit to deliver, including any changes in scope, and the funding contribution they will require from DfT to do so. A decision to accept the best and final funding bid was made by the DfT in February 2011.
- 9.21 As part of the best and final funding bid a £16m saving to the out-turn cost of the Scheme has been identified through the ongoing Value Engineering (VE) activity and reduced scope. The VE changes to the Scheme require an amended planning application. However due to the wording of the Secretary of State's decision letter, legal advice was that a new application for the whole scheme is required.
- 9.22 Whilst the Scheme benefits from an existing planning permission these changes require a new planning process. The scheme meets the criteria of a nationally significant infrastructure project as it includes the construction of new slip roads on the M6 motorway.
- 9.23 As it is a nationally significant infrastructure project instead of the planning application being submitted to Lancashire County Council it has been submitted to the Infrastructure Planning Commission (IPC) and the decision will be made by the Secretary of State.

## **10.0 HUMAN RIGHTS**

- 10.1 The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights ("the Convention ").The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual
- 10.2 The following articles of the Convention are relevant to the determination as to whether the DCO should be made so as to include powers of compulsory acquisition:-
- 10.2.1 article 6 entitles those affected by the powers sought in a DCO to a fair and public hearing by an independent and impartial tribunal. The decision making is not independent within the meaning of Article 6
  - 10.2.2 article 8 protects the right of the individual to respect for his private and family life, his home and his correspondence. A public authority cannot interfere with these interests unless such interference is in accordance with the law and is necessary in the interests of, inter alia, national security, public safety or the economic well-being of the country;
  - 10.2.3 article 1 of the First Protocol protects the right of everyone to peaceful enjoyment of possessions. No one can be deprived of their possessions except in the public interest and subject to the relevant national and international laws. As with Article 8, any interference with possessions must be proportionate and in determining whether a particular measure is proportionate a fair balance must be struck between the public benefit sought and the interference with the rights in question.
- 10.3 The DCO has the potential to infringe the human rights of persons who own property in the Order Land, Such infringement is authorised by law provided:-
- 10.3.1 the statutory procedures for obtaining the DCO are followed and there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the DCO; and
  - 10.3.2 any intervention with the Convention right is proportionate to the legitimate aim served.

### **Compliance with the Convention and the Human Rights Act 1998**

- 10.4 The County Council has considered the potential infringement of convention rights in consequence of the compulsory acquisition powers included within the DCO. The land to be acquired for the Scheme has been kept to a minimum and the Scheme is designed to minimise interference with the

peaceful enjoyment of a person's possessions under article 1 of the First Protocol of the Human Rights Act.

- 10.5 The County Council considers that there would be very significant public benefit arising from the grant of development consent. That benefit can only be realised if the development consent is accompanied by the grant of powers of compulsory acquisition. The public interest can only be safeguarded by the acquisition of this land and such acquisition would not place a disproportionate burden on the affected land owners. In addition, the Road Scheme already has the benefit of various planning permissions the grant of which involved the weighing all material planning considerations including the public benefit of pursuing the Scheme against any disruption and interference that would be caused to individual rights. Finally, the government has analysed the case for the Scheme and has seen fit to contribute £110.9m of public money towards its implementation.
- 10.6 These significant public benefits therefore outweigh the effects of the DCO upon persons with property rights in the Land and would not be a disproportionate interference with their Article 8 and Article 1 of the First Protocol rights. In addition, those affected by compulsory acquisition powers will be entitled to compensation and the County Council has the resources to pay such compensation.
- 10.7 In relation to Article 6, there has been an opportunity for members of the public to make representations on the application. In accordance with Part 5 of the 2008 Act, the County Council consulted the persons set out in section 44 of the 2008 Act. This included known owners and occupiers of the Order Land and those who might make claims either under section 10 of the Compulsory Purchase Act 1965 in respect of injurious affection, or under Part 1 of the land Compensation Act 1973. The beneficiaries of restrictive covenants and other rights overridden by the exercise of powers in the DCO would be capable of making claims under section 10 of the Compulsory Purchase Act 1965.
- 10.8 Furthermore, representations can be made by way of objections to the Application in response to any notice given under section 56 of the 2008 Act the examination of the application by the examining authority, any written representations procedure which the examining authority decides to hold and in particular, any compulsory acquisition hearing under section 92 of the 2008 Act .
- 10.9 Should the DCO be made, a person aggrieved may challenge the DCO by judicial review in the High Court if they consider that the grounds for doing so are made out pursuant to section 118 of the 2008 Act. In relation to disputes about compensation, affected persons have the right to apply to the Upper Tribunal (Lands Chamber), an independent tribunal.
- 10.10 For the above reasons, any infringement of convention rights of those whose interests are affected caused by the inclusion of powers of compulsory

acquisition is in the public interest and according to national and European law, and it would be appropriate and proportionate to make the DCO, including the grant of compulsory acquisition powers.

## **11.0 SPECIAL CONSIDERATIONS**

### **11.1 Special Category Land - Open Space Land**

- 11.1.1 The DCO includes the provision for both the acquisition of open space land and the acquisition of new rights over open space land. Plots 13 to 18, 20, 24 to 27, 32, 69, 172 and 173 are currently in use as open space. The County Council intends to make an application to the Secretary of State for Communities and Local Government for a certificate under Sections 131 and 132 of the 2008 Act. Plots 13 and 16 are required to widen an existing highway. Rights are required over Plots 66 and 172 for the laying and maintenance of new drainage for the classified road and for access to maintain a drainage headwalls. Plots 14-15, 17- 19, 24 to 25 and 32 are required to construct the new road and Plot 173 is required to construct the headwall for the Slynedales Culvert.
- 11.1.2 It is proposed to acquire additional land (Plots 21, 22, 29, 31, 66, 72, 74, 76, 78 and 80) for use as open space in exchange for land to be taken.
- 11.1.3 The Plots will be vested in the owners of the Plots currently used as open space as described in the DCO. The vesting will take place on the latest of the following dates:-
- 11.1.3.1 the date on which the DCO becomes operative;
  - 11.1.3.2 the date on which the Plot which is currently in use as open space is vested in County Council;
  - 11.1.3.3 the date on which the corresponding Plot to be provided in exchange is vested in the County Council.
- 11.1.4 In accordance with Sections 131 and 132 of the Act the DCO must be subject to special parliamentary procedure, unless the County Council obtains a certificate from the Secretary of State. The County Council intends to make an application to the Secretary of State for the required certificate.

### **11.2 Special Category Land - Crown Land**

- 11.2.1 The County Council is seeking to acquire Crown Land (Plots 202, 204, 210 to 213, 216 to 220, 224 to 226, 245 to 246, 249, 259, 272b, 272c, 275, 276, 278 and 279).
- 11.2.2 Plots 216 to 219 and 226 are vested in the Secretary of State for Defence. Plots 202, 204, 210 to 213, 215, 220, 245, 246, 249, 259, 272b, 272c, 275, 276, 278 and 279 are vested in the Secretary of

State for Transport. The Secretary of State for Transport has registered title for Plots 224 and 225 though the Secretary of State for Defence also considers he has ownership of these plots.

- 11.2.3 This land is in the ownership of the Secretary of State for Transport (managed by the Highways Agency) and the Ministry of Defence (part of Halton Training Camp). A letter has been received from the Highways Agency consenting to including their land in the DCO. Written consent from the Ministry of Defence is awaited and expected by the start of the examination of the DCO application.

## **12.0 OTHER CONSENTS**

- 12.1 The following will or may be required in addition to the powers sought in the DCO and any consents under the DCO:
  - 12.1.1 Protected Species Licences under the Conservation Habitats and Species Regulations 2010 in respect of any species found on the Land namely bats;
  - 12.1.2 as set out above a certificate from the Secretary of State in respect of open space land;
  - 12.1.3 as set out above consents from the appropriate authorities in respect of Crown Land;
  - 12.1.4 consents from the Environment Agency for works affecting a main river and ordinary watercourses.