

Progress Report on Major Capital Projects

A report by the Head of Countywide Improvements to the Highways Advisory Board on 16th September 2008.

Introduction

1. It is an appropriate time to update the Board on progress of the major transport and highway schemes following the last Report in March 2008. It is understood that the Board welcomes these reports and the intention is to continue to provide them half yearly and when there are important issues to bring to Members' notice.
2. The last six months continue to be dominated by the considerable efforts of the Team in progressing the growth area schemes in Kent Thameside and Ashford within the funding and time constraints; and progressing other schemes, mainly in East Kent. All of this has been made more difficult than usual against the inevitable settling in period involved in the KHS Transformation.
3. Everards Link Phase 2 was completed in July, in accordance with the revised timetable and spend profile agreed with DCLG.
4. The Public Inquiry into the statutory Orders for Sittingbourne Northern Relief Road commenced on 8 July and sat for seven days. Preparation beforehand and attendance at the Inquiry required the intensive participation of Jacobs staff and County Council staff across a number of Divisions.
5. East Kent Access Phase 1C received the Institution of Civil Engineers South East Association Brassey Awards 2008 in the Transport Project category and as Overall Winner. The scheme also received the Jacobs Performance Excellence Award 2008 which is a European award that won against a wide range of projects. This was a challenging scheme and the awards are a deserved recognition for the Project Manager, Jacobs and the contractor May Gurney.
6. The Board will be aware that Union Railways/London & Continental Railways have made a substantial claim against the County Council in connection with the South Thameside Development Route Stage 4. Following the Lands Tribunal hearing into Preliminary Issues in December 2007, the decision was issued in June and the President found for the claimants. However, the County Council has been granted leave to appeal in the Court of Appeal which would probably be heard later in 2008/early 2009.
7. The issue of construction inflation being significantly higher than retail price inflation remains a major concern for the funding of the larger LTP projects such as East Kent Access Phase 2 and Sittingbourne Northern Relief Road. DfT funding is on a cash basis and the County Council is obliged to make judgements about inflation over the development and construction period of the project.

Progress

8. A progress or status report on Fastrack Everards Link Phase 2, Sittingbourne Northern Relief Road, Rushenden Relief Road, Ashford Ring Road, Newtown Road Bridge, Other Ashford Schemes, Eurokent Phases 4 & 5, Fort Hill De-dualling, East Kent Access Phase 2, other schemes and Land matters is given in the Appendix to this Report.

For brevity, only some of the background provided in previous reports is provided with the focus given to activity in the last half year.

A number of acronyms are used and a glossary is given at the start.

Conclusion

9. Some of the issues referred to are live and matters may have progressed since the time of writing this Report. Where appropriate a verbal report will be given to the Board Meeting.
10. This report is for Members' information.

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Fort Hill De-dualling – John Farmer
East Kent Access Phase 2 – Geoff Cripps
Borough Green Bypass – John Turner
Operation Stack Lorry Park – John Farmer
A2 On-Slip, Canterbury – Geoff Cripps
Maidstone Schemes – John Turner
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Glossary of Terms

DCLG	Department of Communities and Local Government
GAF(2)	Growth Area Funding – 2 nd tranche
GAF(3)	Growth Area Funding - current 3 rd tranche
CIF	Community Infrastructure Fund
DfT	Department of Transport
PE	Programme Entry
CA	Conditional Acceptance
LCA Part 1	Land Compensation Act Part 1
MTP	Medium Term Plan
NR	Network Rail
LTP	Local Transport Plan
CPO	Compulsory Purchase Order
SRO	Side Roads Order
SEEDA	South East England Development Agency
S106 contribution	Contribution under the Town & Country Planning Act
S106 Scheme	Navigable waterway Order under the Highways Act
S278 Agreement	Developer funded and constructed highway works

Kent Thameside

Fastrack

Everards Link Phase 2 (EL2)

Phase 2 will provide a link from the bus interchange at Greenhithe Station (Everards Link Phase 1) through to Ingress Park and eventually onto Swanscombe Peninsula. This will become part of the Fastrack riverside route.

Construction, by Birse Civils Limited, was completed at the end of July 2008. The cost has been funded by a £5.3m allocation from DCLG's CIF programme.

Although final accounts have yet to be submitted the scheme looks to have been delivered under the agreed budget. Various programme adjustments and hence quarterly funding projections have been needed and DCLG has been very supportive in managing change.

The scheme cannot be brought into use until Crest Nicholson, the developer of the Ingress Park site, has completed its connection of the route into Ingress Park. This is a planning obligation on the development of the site

When construction started, Crest was intending to construct their section in a similar time frame to EL2, but this has not happened. It is disappointing that the private sector has been unable to play its part in the timely support of the transport strategy for Kent Thameside.

Crest has an obligation to have its section of the Fastrack link completed by October 2010. It has informally indicated its intention to start construction in May 2009. However, with the down turn in the housing market there is no guarantee that date will be met. In any case the main works on the Crest site have to be done between May and September in any year, to avoid an important bat roost.

The County Council has therefore been faced with the issue of and cost of securing the EL2 works, and in particular the new underpass at The Avenue and an excavation that remains open at the start of the Crest section.

The underpass has been physically sealed at both ends, the excavation has been secured and overall access to the busway boarded off. However, keeping the site secure for what might be as long as 18 months is a concern and will continue to be monitored.

Although the County Council are no longer directly involved it is useful to mention that Network Rail are well advanced with works for the second phase of the upgrade of Greenhithe Station. This includes a new footbridge with lifts linking the platforms to replace a subway and general platform upgrades to complement the new booking hall that was completed in 2007.

Northfleet Embankment

This is another link in the Kent Thameside Fastrack public transport network.

SEEDA is Master Planning the development of the Northfleet Embankment area, broadly the land from Grove Road at Northfleet eastwards to the existing Imperial

Business Estate at Gravesend. This development will include dedicated Fastrack links.

The current network is missing a dedicated link from Bath Street, Gravesend to the Imperial Business Estate. DCLG is funding the design of this link with a view to a submitting a planning application.

Sittingbourne Northern Relief Road

The Relief Road will provide a link across Milton Creek, linking Ridham Avenue and Castle Road, where existing developer funded sections of the Relief Road have already been built. It is a complex and expensive scheme because in addition to the Creek crossing, the scheme crosses the Sittingbourne & Kemsley Light Railway and a redundant landfill site.

The funding approval in principle is based on an estimated cost of £43.0m and funded by £29m LTP, £9.9m DCLG and £4.1 S106 developer funding.

The Public Inquiry into the Statutory Orders commenced on 8 July and sat for seven days. This was twice the anticipated time, mainly due to the number of non-statutory objectors heard, the time they took and the way in which the Inquiry was directed by the Inspector.

Prior to the Public Inquiry, a submission was made to satisfy Condition 4 of the planning consent that required submission of details of alternative bridge designs prior to the commencement of construction. A report, the 'Moveable Bridge Report', produced by Jacobs was submitted in fulfilment of this Condition. The planning condition was discharged by the Planning Applications Committee at its meeting on 13 May 2008.

Four of the five statutory objections to the CPO and SRO were negotiated away and the Public Inquiry was substantially about the S106 Scheme. Objectors were arguing for an opening bridge to ensure there was no restriction to navigation and that future regeneration of the creek should not be prejudiced.

The County Council's position is that £4-5m (increased capital cost and future maintenance/operating costs) for an opening bridge cannot be justified on the basis of the very limited use of the Creek, as identified in an independent report commissioned by the County Council and as demonstrated by objectors at the Inquiry and the absence of identified regeneration proposals that include boating as a key component.

The Inquiry went into considerable detail but the fundamental issue remains for the Inspector to consider and advise the Secretary of State as to whether the County Council is correct in its stance that it is not appropriate for the public sector to incur a large additional and unfunded cost for what is low or aspirational use of the Creek by yachts.

Little progress can now be made, other than at risk, until the Inspector submits his report and the Secretary of State has made a decision.

If the decision on confirmation of the Statutory Orders is delayed, or the current fixed bridge proposal rejected, then the Relief Road will be considerably delayed and prejudiced. The planning consent for the scheme expires in September 2009 and

delay, or rejection of the fixed bridge, would require a completely new planning submission. A moveable bridge decision would also require re-publication of the S106 Scheme, with the possibility of objections and another Inquiry, and further funding would need to be secured, including covering the effects of construction inflation resulting from the delay.

However, we are working with Jacobs to produce a number of programmes and spend profiles that will allow a degree of work on further scheme design and contract procurement processes to go ahead at minimal risk.

It is the case though that if a decision on the confirmation of the Statutory Orders is not made by about March 2009, the prospect of commencement of works within the timescale of the planning consent is very low. The delay to the Scheme could then be of the order of 18-24 months.

Rushenden Relief Road

The County Council is progressing this scheme on behalf of and at the request of SEEDA. The scheme provides a new link between the A249 and the regeneration areas avoiding the unsuitable Main Road. The estimated cost is about £13m and would be funded by DCLG and SEEDA resources.

SEEDA are the Lead body for funding, assembling the land and satisfying the planning conditions.

SEEDA has had considerable difficulty in finalising the land negotiations and responding to the planning conditions to the satisfaction of English Nature but all this has now been completed.

The design is completed and the County Council invited construction tenders in summer 2007 at the request of SEEDA in anticipation of a start in autumn 2007. With the delay by SEEDA the validity of these tenders has now lapsed.

SEEDA are in discussions with DCLG on the revised funding and spend profile required to deliver the scheme with a revised start date of spring 2009.

New tenders will need to be invited at the end of September at the latest to achieve the desired start date. However, a formal Agreement is also required with SEEDA covering funding and risk and the County Council would require to see substantive progress on this and the key principles agreed before inviting tenders again.

All major infrastructure projects are difficult and the County Council and SEEDA continue to work in partnership to deliver this important regeneration infrastructure scheme for Sheppey.

Ashford

Ashford Ring Road 2 Way Transformation

The scheme is for the transformation of the Ring Road to 2 way and enhanced public realm and shared space concepts to the south and west sectors between Station Road and New Street. The scheme also includes enhanced public realm to Bank Street between Tufton Street and Elwick Road.

The total cost of the scheme is some £16m and is in the main funded from DCLG GAF(2) and GAF(3) but with other public, private and European funding.

Any major changes to a town centre road are difficult and controversial but this is compounded by the introduction of innovative shared space concepts and complex public realm designs, art and materials.

While much of this is new and at the forefront, Ashford is not a 'one-of' and these ideas are increasingly being promoted and advocated nationally as a solution to balance the needs of all users in town centres across the UK.

Substantial progress is being made. The Phase 1 transformation of the Ring Road to 2-way operation was successfully completed in July 2007 ahead of the Tour de France.

In July 2008 the public realm improvements to Bank Street were formally completed and marked by an event involving Members and the local business community.

The Victoria Road/Beaver Road junction conversion from a roundabout to a signalised junction together with the associated Victoria Road realignment was substantially completed in July 2008.

All efforts are now being directed at substantially completing the public realm works to Elwick Road/Godinton Road/West Street/Forge Lane by the end of October 2008 so that there are no major traffic management measures and inconvenience to the town centre and Ashford business community in the pre- Xmas trading period. The Godinton Road/Forge Lane section has been closed to traffic – with suitable diversions in place - to allow free access for construction over this complex section and to support the end date objective.

Following the announcement of GAF(3) funding at the end of 2008 it was possible to commit to the final scheme for West Street and Forge Lane. Unfortunately in spring 2008 the tensions between managing a live contact and imposing major design changes to replace an interim scheme led to financial monitoring and project management difficulties. A significant funding gap became apparent and following a thorough review it was identified that the likely out-turn cost could be as much as £1.5m short. This shortfall has now been covered by a further allocation of GAF(3) and LTP IT funding.

The difficulties on the Ring Road are varied and complex and a detailed report has been presented to the Ashford's Future Partnership Board. Experience has shown the need for absolute clarity about the scheme to be delivered and the roles and responsibilities at the outset and greater realism about what can be delivered within a short funding period. These lessons have been learnt for Victoria Way and future Ashford schemes.

It hardly needs saying that DCLG, Ashford's Future and Ashford Borough Council has been very supportive in understanding the complexity of the schemes and accommodating the increased cost and revised spend profiles.

Newtown Road Bridge, Ashford

The scheme is to replace the deck carrying the railway and gain width and increased headroom so that the route is available for a future high quality SMARTLINK bus

service and to provide a better and less oppressive route for pedestrians and cyclists. The scheme has £4.8m Growth Area and £0.2m LTP IT funding and is being delivered on our behalf by Network Rail.

The scheme is close to completion. The bridge is substantially complete and the associated utility diversions and highway improvements are underway leading to completion in December 2008.

Tenders for the main bridgeworks were significantly above Network Rail's estimates and DCLG has been very supportive in accepting both increased funding and revised spend profiles.

Ashford – Transport Strategy

The County Council is actively working on two projects that are the immediate priority within the overall Transport Strategy for Ashford:

- Victoria Way Phase 1 – A link between Victoria Road and Leacon Road. Although ostensibly to create a town centre street to reflect the growth of the town centre it will also offer a degree of traffic relief to the town centre. See separate Report to this Board meeting.

Funding will be from GAF(3) and CIF if current bid being prepared is successful.

- Drovers Roundabout to M20 Junction 9 – Improvements and signalisation of Drovers roundabout, signalisation of Junction 9 and a new footbridge over the M20. The scheme is related to development proposals including the proposed Park and Ride. A Report to the November 2008 meeting of the Board is anticipated.

Funding will be from GAF(3), RIF if current bid is successful and developer funding.

East Kent

Eurokent Phases 4 & 5, Thanet

In partnership with Thanet District Council (TDC), SEEDA, and Rosefarm Estates, the County Council is constructing the access road at Eurokent. The County Council is forward funding the bulk of the Phase 5 construction costs on the back of the uplifted land values. The scheme will facilitate the development of the site and provide local bypass to a particularly poor section of Haine Road.

The overall cost is some £6.7m and SEEDA and Rosefarm are contributing £1.3m leaving the net cost to the County Council of £5.4m consistent with the budget allocation.

The 4-way land and funding Agreement was completed in December 2007.

Construction by Jackson Civil Engineering started in January 2008 and remains on target for completion in November 2008.

In addition to the highway works, the scheme includes the full provision of utilities so that adjacent development sites are fully serviced. A key element of this is the provision of a deep gravity foul sewer requiring micro-tunnelling techniques where open trench excavation is not appropriate.

On completion, a local bypass of Haine Road will have been achieved and limited traffic management measures will be installed on Haine Road to discourage unnecessary traffic. Residents and businesses will be consulted but full severance of the road is not proposed as it is desirable to retain a diversion route for traffic in the event of an incident or planned maintenance.

East Kent Access Phase 2

Government indicated its intent in principle to fund the £64m cost when Programme Entry status was approved in July 2006.

The statutory Orders were published in October 2006 and a Public Inquiry was held in April 2007. The main statutory objections were successfully negotiated away.

EDF has a sub-station that requires to be moved and they look to the County Council to secure the necessary land. This is unusual as utilities typically use their own resources and powers to secure land and rights for service alterations. Land for the sub-station was not therefore included in the CPO and it has taken until August 2008 to secure land acceptable to EDF by voluntary negotiation. Now that this constraint has been removed it is anticipated that the Secretary of State will be in a position to confirm the Orders soon.

In anticipation of confirmation of Orders, work has progressed in preparing and submitting to DfT the Conditional Approval (CA) submission. This is an onerous task and requires a detailed submission that updates the Programme Entry bid and confirms the business case and scheme cost estimates and is formally submitted to DfT after the Orders are approved. Consideration of the CA by DfT can take 3 months and approval gives the Council authority to invite construction tenders.

Since Programme Entry the estimated cost of the scheme has increased to £71.00m. The bulk of this increase is the result of programme slippage and construction inflation and only a small element of the increase can be attributable to a direct increase in cost arising from the detailed design development of the scheme.

It is unfortunate that DfT seem unwilling to make this distinction and just look at the headline cost increase and as a consequence are demanding more supporting information beyond that which has already been submitted to them informally and following earlier discussions.

In any event, DfT has published new Guidance on Major Scheme Funding. EKA2 is regarded as a 'Transition Scheme' and if CA is approved then the County Council will be required to fund 25% of any increase over the £64m PE approval. DfT is passing all responsibility for assessing construction inflation unfairly onto promoters when Government is best placed to influence through national economic policy and to make those predictions.

In terms of the County Council's 25% contribution it has been identified and agreed with DfT that this can form part of the post scheme LCAPart1 liability. This has the advantage of being a liability spread over several years and in the future and gives more scope to budget for it within the context of the MTP.

EKA2 is a big scheme in major project terms but the principal risks are related to the long skew box structures under the railway at Foads Lane, archaeology and construction inflation.

Network Rail are actively involved and co-operating in principle but their processes are onerous and their stance can be inconsistent. EKA2 is a vital scheme to support the local community and the scheme is at the point where some higher level Officer or political engagement with Network Rail may be necessary.

Archaeology is likely to be extensive. Until excavation starts there is clearly a high degree of uncertainty but it is largely within our control and contract documentation is structured to build in flexibility to mitigate the risk. A key part of the tender list selection process was firms demonstrating proven experience on projects with a significant archaeological interest.

Construction inflation is a major concern and significantly out-stripping retail price inflation. At the start of the year, 6% was a reasonable judgement but following the recent increases in fuel prices the industry is suggesting 7-8%. Judging inflation several years hence is clearly difficult and small % increase changes can be very significant in quantum terms and financial liability.

In anticipation of Order confirmation and CA approval and construction procurement, a tenderer selection process has been conducted in accordance with European Union guidance. The process has been rigorous and involved a two-stage process and presentation to the firms so that they fully understood the issues and client requirements. Contractors have been selected using a financial and quality selection criteria and three firms have passed a pre-determined scoring threshold. It is inappropriate to add firms to the list just to generate a tender list of 4 or 5 firms.

In view of the further work to support the CA submission, DfT has advised that it might support the County Council inviting tenders in advance of CA approval. It would be preferable for both the County Council and tenderers to have the confidence that the next stage of funding approval had been achieved but there would also be benefits that tender returns would give that higher degree of reality about the construction cost and funding need.

These options are being assessed but a full construction start before summer 2009 is unlikely but proposals must be developed so that a substantive start must be made before September 2009 when the planning consent lapses. On this basis, completion of the scheme and being open to traffic is unlikely before the end of 2011.

Fort Hill De-dualling, Margate

As part of the regeneration of Margate the decision was taken Corporately to de-dual Fort Hill to reduce severance and integrate the Turner Contemporary and Rendezvous sites more with the town and particularly the old town.

The scheme will include public realm and accessibility improvements to Harbour View and King Street, and to The Parade and Duke Street that are being promoted by Thanet District Council.

The overall cost is just over £1.0m and funding is £550,000 from the County Council, £200,000 from the Integrated Transport allocation for footway enhancements and the

remaining £300,000 from Objective 2 funding from ERDF funding secured by Thanet District Council and the County Council. The scheme is on budget but in any event the public realm works will if necessary be tailored to match the Objective 2 funding available.

Ringway commenced the works on 7 April and the de-dualling works are on programme to complete in October in accordance with a commitment given by the Director of Highway Services. The works are proceeding well and traffic is planned to be moved onto the new carriageway at the end of August. The high quality of the completed Parade area has been noted locally.

When the de-dualling scheme is completed and the released land is surplus to highway requirements a Stopping Up Order will be published to formally remove the public highway rights. The public realm works to King Street, Harbour View and Duke Street (recently added to the project) will not commence until September after the summer season and school holidays.

The de-dualling completion date of October is critical to the Turner Contemporary construction programme because the Turner works will be on part of what is currently highway.

Mid Kent

Borough Green & Platt Bypass

Following issues that led to the abandonment of the Celcon Planning Application Public Inquiry in 2007, the Leader gave a commitment that the County Council would submit a new planning application for the Bypass.

The development costs of about £200,000 are coming from top slicing KHS revenue allocation.

Work is on programme to submit a new application in March 2009. Environmental surveys continue, topographical survey is completed, traffic surveys are complete and a traffic model being developed.

Work remains on programme to submit a planning application in March 2009, on the basis that the scheme will be non-controversial with interested parties acting reasonably in the development of a new planning application.

However, the surveys and design work here raised two issues. The extraction of sand under the line of the bypass and the restoration of the land has left a number of areas of standing water. The ecological surveys to date have revealed that these areas host Great Crested Newts. This means that the County Council will have to identify and secure land for compensatory habitat outside the "red line" of the earlier planning consent. Changes in management of surface water drainage may mean attenuation lagoons of a greater size than in the original scheme, perhaps requiring land outside the "red line".

These issues are under consideration and discussion with Natural England and the Environment Agency but could delay the planning application submission or at least the issue of any planning consent.

A2 Slips Canterbury

For some time, the County Council has been working with Canterbury City Council and assessing the traffic aspects and feasibility of providing the 'missing' slip roads on A2 Canterbury Bypass at Harbledown, A28 Wincheap and Bridge.

The headline benefits are that better provision of slip roads would improve accessibility and reduce unnecessary journeys within the City Centre.

The easiest, cheapest and most deliverable slip road would be the provision of the on-slip at Wincheap.

In a major step forward, Tom Harris MP, the Minister for State for Transport agreed in December 2007, that the on-slip at Wincheap can proceed and on the basis that associated measures are progressed in parallel to ensure the benefits to the City Centre are captured.

The on-slip is estimated to cost £1.5m and will be funded from the Integrated Transport allocations.

The County Council will promote and deliver the scheme. The scheme is being developed but planning permission and Orders will be required and a start before 2010 is unlikely and this would be influenced by whether a public inquiry was necessary.

The County Council is also actively engaged with the City Council and its development partner for the redevelopment of Wincheap business estate. These proposals would involve the provision of the off-slip and the local bypass of the A28 through the redeveloped area to take traffic away from the historic Wincheap area. The proposals are at an early stage but for practical and procedural reasons the County Council may ultimately lead on any future promotion of the off-slip.

Maidstone Schemes

All Saints Link Road

Maidstone Borough Council (MBC) has had long-standing aspirations for an All Saints Link Road (ASLR) that would run between Bishops Way and Wrens Cross. The objective is to remove traffic from that part of College Road between the Archbishop's Palace and the Carriage Museum and from Palace Avenue/Lower Stone Street. This would allow for some regeneration of the area and bring the Palace and its outbuildings together.

MBC has recently achieved Growth Point status and this had given added impetus to their aspirations for the Bypass.

The scheme is essentially to achieve environmental and regeneration benefits and neutral in traffic terms. The County Council has been asked to progress the Bypass on behalf of the Borough Council and with costs reimbursed.

The immediate objective is to develop an outline design in sufficient detail so that meaningful consultations can be had with statutory consultees to secure acceptance to a preferred scheme that could then be taken forward to planning consent.

The allocation of funding to MBC is such that with other schemes on its wish list there is limited funding for the ASLR design. It seems that there is not sufficient to promote a planning application, and no certainty that capital funding would come forward in the life of a planning consent if achieved in the next 18 months – 2 years.

MBC have yet to confirm the funding available for ASLR to inform the extent of the work that can be commissioned from Jacobs.

Upper Stone Street layby

The Upper Stone Street scheme was to provide a layby on Upper Stone Street, to reduce the impact on traffic of inappropriate on-street parking. Consideration of the layby followed agreement in 2006 between the County Council and MBC about the rescinding of major works on Upper Stone Street which then allowed sale of property acquired for those works.

However, the area in which a layby could be provided without acquisition of other land is in an area where a layby might see little use and where a safety audit of a preliminary design has cast doubt on the proposal generally.

The intention was that capital receipts, up to some £300,000, would be used to fund design and construction of a layby.

An appropriate layby would require acquisition of land and a cost well in excess of the £300,000.

It would be more appropriate to develop a strategy for service access on the whole of Upper Stone Street and to implement that progressively, perhaps through development contributions.

No further action at present.

Wrens Cross

The County Council wishes to see redevelopment of the Wrens Cross site that it owns and includes Listed buildings in a poor state.

The site is affected, albeit indirectly, by both the ASLR scheme and an Upper Stone Street layby strategy and the improvement of the Wrens Cross junction as part of the ASLR scheme.

Redevelopment options depend on whether the Listed structure is physically affected by the improvement of the Wrens Cross junction but that cannot be determined without design work that is as yet unfunded.

South East Maidstone Strategic Route (SEMSR) (to replace Leeds & Langley Bypass)

No work on this scheme at present pending the outcome of traffic modelling work being undertaken to inform the Maidstone Borough Council Local Development Framework (LDF).

This LDF process has been delayed by MBC's need to consider, amongst other things, the Kent International Gateway application and the impact that might have on traffic flows in the area.

When this further work is completed the situation can be reviewed and discussion held with MBC on the way forward.

Land Matters

Property and Land Held for Highway Purposes

The only significant portfolio of properties that continue to be held are for the London Road – Hadlow Road Link, Tonbridge and they have a face asset value of some £5m. It is an important scheme in Tonbridge & Malling's Local Development Framework aspirations for Tonbridge but it is expensive and has failed to secure developer funding in the many years that it has been an approved scheme. Discussions continue with Tonbridge & Malling as to the realistic viability of securing funding for the scheme in the short to medium term and if not whether abandonment of the scheme and realisation of the assets needs to be reconsidered.

Many ad-hoc parcels of land continue to be identified by Corporate Property as in County Council ownership and held for highway purposes. The need to retain this land continues to be robustly reassessed in support of the Corporate initiative to realise capital receipts from tied up assets so that they can be better directed at services and more immediate and deliverable projects in support of T2010 objectives.

Land Compensation Act Part 1 Claims (LCAPart1)

Claims are being received and assessed for:

A228 Leybourne & West Malling Bypass

M20 Junction 4

Hawkinge Bypass – Phase 1 – see below

Kemsley Fields – see below

Fastrack Phase 1 Major Scheme

Everards Link Phase 1

Other County and Developer schemes

The level of service to claimants and agents has temporarily suffered over the last 4 months as a staff resource has been lost as a result of the KHS Transformation process.

In the March 2008 Report I referred to the complaint to the Ombudsman in respect of Hawkinge Bypass Phase 1.

In summary, claims were rejected because the road had not been adopted within 3 years as required under the legislation. The Ombudsman accepted that there had been no intent by the County Council or collusion with the Developer to delay adoption to avoid valid claims being made but asked what remedy the County Council proposed.

In May 2008, the Cabinet Member took the decision that the claimants would be invited to resubmit their claims and that they would be processed in the normal way.

Developers frequently complain about the future intensification of use component of claim assessment. This is particular the case where the Developer builds a section of road that is or later becomes part of a wider strategic network.

The Developer of Kemsley Fields was particularly affected because this section from A249 connects into the proposed Sittingbourne Northern Relief Road (SNRR). The S278 Agreement was completed in 1992 and the SNRR was not an active proposal at that time. After taking Counsel advice and further consideration, the view is that a Developer can only provide an indemnity for what was reasonably known and understood by the parties to the S278 at the time it was completed. On that basis a Deed of Variation has been entered into with the Developer whereby any extra-over liability associated with the Relief Road will be met by the County Council.

This was an unusual situation and unlikely to be a frequent issue. However, KHS staff and Legal Services preparing S278 Agreements have been advised to bear this in mind when considering the LCA Part 1 financial indemnity clauses.