

**DRAFT - 15-8-16**

**THE KENT COUNTY COUNCIL (A28 CHART ROAD IMPROVEMENT)  
(COMPULSORY PURCHASE) ORDER 2016**

**STATEMENT OF REASONS FOR MAKING THE COMPULSORY PURCHASE  
ORDER**

**1. INTRODUCTION**

This is the Statement of Reasons of the Kent County Council ("the Council") for making the Kent County Council (A28 Chart Road Improvement) (Compulsory Purchase) Order 2016 ("the Order").

In preparing this statement, the Council has endeavoured to provide sufficient information so that the reasons for making the Order can be properly understood.

This statement in particular:

identifies the powers under which the Order is made (Section 2);

sets out the background to the Order (Section 3);

provides a general description of the Scheme and details of the proposed Order (Sections 4 & 9);

sets out the Council's reasons and justification for making the Order (Sections 7 & 8);

sets out the arrangements for the inspection of documents (Section 17); and

sets out contact details for further information (Section 18).

**2. POWERS UNDER WHICH THE ORDER IS MADE**

The Order is made under sections 239, 240 and 250 of the Highways Act 1980. Section 239 gives powers to acquire land in order to improve the highway and is the underlying basis for securing the land for the scheme. Section 240 allows further land to be taken that is required for use in connection with the improvement of the highway and section 250 provides for the creation of rights such as rights of access to inspect and maintain the scheme.

**3. BACKGROUND TO THE ORDER**

Ashford is a major county town serving central and eastern Kent. In 2003 it was identified as one of the Growth Areas in the Government's Sustainable Communities Plan with the aspiration to achieve some 31,000 new homes and 28,000 new jobs.

The town is located adjacent to the M20 that runs along the northern edge of the town centre with access from junction 9 to the west and junction 10 to the east. The

A28 is a strategic route that in the local Ashford context runs from junction 9 to the west and south of the town centre serving existing developments and major growth areas such as Chilmington Green.

Significant improvements to highway infrastructure were identified to cater for this growth and the complementary increase in the size of the town centre to serve this increasing population. The town centre ring road has been improved together with areas of public realm and shared space. A new connection between A28 Chart Road and Beaver Road, known as Victoria Way, has been provided to the south of the town centre to reflect its future expansion. The A28 has been progressively improved over recent years. A28 Templar Way between Drovers Roundabout and Tank roundabout on Chart Road was improved several years ago. M20 junction 9 and A20/A28 Drovers roundabout and the A28 road between were improved in 2011. It had then been the intention to develop proposals for improving Chart Road between Tank roundabout and Matalan roundabout but this was put on hold as government funding and development activity declined. As the UK emerges from recession and with the award by government of Local Growth Funding and the proposed development at Chilmington Green it is now necessary to actively promote the improvement of this next section of A28 Chart Road between the Tank and Matalan roundabouts.

The existing A28 is a single carriageway road that runs within an urban corridor with Godinton Park housing estate to the west and Cobbs Wood industrial estate to the east. It passes on a bridge over the London to Dover railway line and over a section of tunnel that carries the Channel Tunnel Rail Link.

The road suffers severe congestion at peak times because of inadequate link and junction capacity. Congestion will increase with general background growth and development traffic. The scheme will provide a two lane dual carriageway with junction improvements to improve traffic flow together with improvements for pedestrians and cyclists, and environmental improvements for Godinton Park residents. Other initiatives and planning obligations are seeking to increase the use of public transport but, with the current on-going primacy of the car as the mode of choice, traffic flows will inevitably increase over time. The aspiration is that there should be 'nil detriment' - congestion being no worse than if the road had not been improved and developments were not taking place - by a future planning time horizon of 2031.

The outline design of the scheme has been developed and following public engagement a preferred scheme has been identified. The detailed design has been developed to a stage where the extent of land acquisition and the need for rights has been ascertained. Discussions have commenced with land owners for the voluntary acquisition of the necessary land and rights but these have not been concluded and a compulsory purchase order needs to be progressed in parallel to ensure all land and rights can be secured to give funding and delivery programme certainty.

The land required is primarily adjacent to the east side of the road along the frontage of the Cobbs Wood industrial estate. The land is generally flat and no buildings are affected. The land is generally paved access, hardstanding and parking areas related to operational commercial and retail users. Other land is grassed, forming

part of a larger holding, or paved hardstanding of a site no longer operational forming part of a larger holding. On the west side of the road a narrow strip of garden is required from a residential property and a strip of grass field associated with a residential property.

The Council has agreed to forward fund the scheme so that the benefits can be achieved at the earliest opportunity and to avoid what would otherwise be a series of incremental improvements over many years with the consequential increased traffic disruption, inconvenience to local people and businesses, commercial inefficiency and inevitable elements of abortive works.

#### **4. A28 CHART ROAD SCHEME**

The scheme will provide a two lane dual carriageway between Tank roundabout and Matalan roundabout. The existing railway bridge over the London - Dover railway line will be used to carry the north bound carriageway. A new bridge to the east and adjacent to the existing bridge will carry the new southbound carriageway. This is consistent with the objectives of achieving as much of the road widening along the east side of Chart Road to minimise the effects on the Godinton Park housing estate and to maximise retained land for replacement landscaping and acoustic protection.

The carriageway levels on the southern approach to the existing railway bridge will be lifted slightly to achieve minimum forward visibility standards. The new bridge will have a wider span and a higher track clearance to future proof the structure and satisfy Network Rail requirements. This will lead to the carriageway level being slightly higher over the new bridge and on the immediate approaches than that on the north bound carriageway over the existing bridge.

The land on the east side of the new bridge is lower than the existing road. On the north side a retaining wall is proposed to limit the land take required from an adjacent commercial business.

The land immediately to the south of the railway is significantly lower than the existing road. A retaining wall is proposed to minimise land take and to avoid affecting a commercial building. This retaining wall will need to continue although at a lower and reducing height on the final approach to Matalan roundabout in order to minimise the impact and loss of car parking for the adjacent retail store.

Some widening is required on the west side locally in the area of Loudon Way in order to allow a viable junction to be retained at Brunswick Road. The proximity of Brunswick Road (north) as a parallel service road close to Chart Road prohibits fully widening the road along the east side because of the need to retain space to allow heavy goods vehicles in particular to complete turning movements.

The remaining physical constraint is in the area of East Lodge and a commercial site opposite. There is insufficient width, even adopting minimum design standards, to achieve the scheme without requiring land take. The commercial site has already had land taken in the past for the Channel Tunnel Rail Link and further land take would have a severe effect on their business in terms of a steeper access, loss of

parking, loss of internal circulation and frustration of business development opportunities.

The decision has been taken to avoid any direct impact on the commercial site and to take a narrow strip of side and rear garden from East Lodge. It will require rebuilding the boundary wall and this gives the opportunity to slightly increase its height to give added visual and noise protection from traffic. East Lodge is a Grade II Listed Building and an application for Listed Building Consent for the taking down, relocating and rebuilding of the wall using recovered bricks was approved by Ashford Borough Council on 14 June 2016.

Matalan roundabout will be improved. The overall diameter and circulatory carriageway width will be increased. The entry from Great Chart Bypass will be improved by increasing the length of carriageway available for two lanes of traffic to line up on the approach to the entry to the roundabout. The access to Wyvern school will be maintained as left in/left out with the central island on the approach to the roundabout extended across the access so that right turn movements are not physically possible so close to the roundabout. Drivers will continue to be required to travel along Great Chart Bypass and 'U' turn ' at Tithe Barn Lane - about 900m to the south - which although requiring a long journey distance is a safer manoeuvre. The access to No. 1 Great Leacon Cottages will be connected directly into the roundabout. The access to Chart Leacon Cottages just to the south of the existing railway bridge will be retained but limited to left in/left out use with residents required to use Matalan and Tank roundabouts to achieve right turn movements.

Brunswick Road junction will be provided as a left in/left out junction. Drivers wanting to turn right into Cobbs Wood industrial estate will need to continue north and 'U' turn at Tank roundabout or use Carlton Road which connects into Tank roundabout or turn in at Hilton Road. Drivers who want to turn right out of Cobbs Wood will need to turn left and 'U' turn at Matalan roundabout or travel within the estate and use Carlton Road to access Tank roundabout.

Loudon Way will be retained as an all movements signal controlled junction. The dualling of Chart Road will allow two lanes on both approaches for main road traffic with a separate left turn lane into Loudon Way from the south and a separate right turn lane into Loudon Way on the approach from the north. Operation of the signals will be upgraded and improved. All Loudon Way traffic will be released on the 'green' phase rather than the current phasing where left turn and right turn out movements are controlled separately.

Hilton Road junction will be retained as a left in only junction. As with Brunswick Road, drivers wanting to turn right into Cobbs Wood industrial estate will need to continue north and 'U' turn at Tank roundabout or use Carlton Road which connects into Tank roundabout. The road widening and layout constraints prevent a left turn out and drivers wanting to make this movement will have to use Brunswick Road or Carlton Road.

Tank roundabout will be improved. This is a highly constrained junction with five entry arms. It has not been possible to reduce the number of entry arms because of the consequential access, community safety and wider traffic implications. The

junction will be improved by extending the existing roundabout into a lozenge shape to give more circulating space, improved entries and greater separation between entries.

A continuous segregated footway and cycleway will be provided along both sides of the road. Signal controlled crossings - 'Toucans' - suitable for pedestrians and cyclists will be provided just to the north of Matalan roundabout, at Loudon Way integrated with the overall signal control of this junction; and just to the south of Tank roundabout.

A continuous acoustic fence - fronted by new planting to soften its visual impact - will be provided along the back of the footway/cycleway along the Godinton Park estate side of the road. While the widening along the Godinton Park frontage is limited in terms of land take there will be the loss of some hedges and trees. There is a significant area of retained land available and extensive and increased replacement landscaping will be provided. Some tree loss is required along the Cobbs Wood frontage north of Brunswick Road junction. Consideration is being given at the request of Ashford Borough Council for further trees to be removed so that a more structured boulevard approach can be created with new planting to complement the new road.

Parking within Cobbs Wood industrial estate is an issue for local businesses and some of this estate parking spills over onto Loudon Way which is a concern for local residents. The effect of Brunswick Road becoming left in/left out only and Hilton Road being limited to left in only may increase movements on some internal estate roads as drivers seek to access Tank roundabout. Ashford Borough Council on behalf of the Council and in support of the scheme are carrying out a review of parking and the current extent of parking restrictions and started initial local consultation in July 2016.

## **5. REJECTED ALTERNATIVE SCHEME OPTIONS**

The proposed scheme is intended to reduce congestion by providing additional road and junction capacity with the improvements achieved primarily along the Cobbs Wood industrial estate side of the road so that the impacts on the Godinton Park housing estate can be minimised. In adopting this preferred scheme, alternative options were considered including the option of doing nothing.

### **Do Nothing**

'Doing nothing' is not a viable option. The A28 is a strategic route that connects with the M20 at junction 9 and serves the east and south side of Ashford and continues southwards to serve rural communities before connecting with the A21 Hastings to London trunk road. There is congestion at peak periods and this leads to unreliable journey times. There is also a lack of continuity of footway and cycleway provision along both sides of the road. The situation will get worse with the building and occupation of nearly 6000 homes at Chilmington Green, other developments in Ashford and with general background growth in traffic. Improvement is essential to ensure that the adverse effects of extra traffic for drivers, businesses, residents and the Kent economy are mitigated.

## **Public Transport**

Before the global recession the Local Development Framework Core Strategy adopted in 2008 put emphasis on a 'Smartlink' public transport system to support growth in Ashford but this still contemplated a dual carriageway improvement with some carriageway space dedicated for buses. Post-recession, the Chilmington Green Area Action Plan adopted in 2013 acknowledged the on-going primacy of the car as the mode of choice but stated that the creation of a choice of realistic and practical alternative modes is a key transport principle for development at Chilmington Green. However, it acknowledged that the prospect of capital funding from Government for major transport projects such as 'Smartlink' had receded.

## **Alternative Route**

The only potential route alternative would be use of the existing railway bridge and gaining width by diverting utilities that occupy a dedicated part of the bridge onto a new service bridge.

This is not an acceptable alternative. It would be sub-standard in design in terms of carriageway and pedestrian and cycleway widths and it would not be possible to physically segregate the carriageways. The engineering feasibility of utilising the existing part of the bridge currently dedicated to carrying utilities only is un-proven. The new service bridge and diverted utilities would severely impact on adjacent houses.

If such a scheme could physically proceed it would require a substantial diversion of utilities. This would have a significant cost impact but in addition the diversion of utility pipes and cables would have a major impact on the construction programme and traffic management. Building the overall scheme would be more difficult with greater disruption to existing traffic. The advantage of the proposed scheme is that the new bridge and reasonable lengths of new carriageway between Matalan roundabout and Brunswick Road can be built without significantly affecting traffic using the existing road. The alternative route would also be much closer to houses who already suffer from traffic noise and there would be much less residual land available to provide noise mitigation and replacement landscaping which is possible with the proposed scheme.

If the alternative route utilising the existing bridge was adopted it would also not be considered appropriate to then continue the improvement along the west side of the A28. It would bring traffic nearer to Godinton Park houses with a consequent increase in traffic noise. In particular lengths of existing earth screening bunds would be affected and a larger area of non-highway grass verge would be taken leaving a much narrower residual strip available to provide noise mitigation and replacement landscaping. It would not be possible to continue the widening on the west side up to Tank roundabout without demolishing East Lodge. Widening along the west side of the A28 over the middle section of the improvement would not significantly reduce the extent of land taken under this Order because the middle section is generally deliverable within the existing highway corridor.

The concept of a new bridge alongside and to the east of the existing bridge has been a longstanding concept and the improvement of the existing bridge in 1996 was undertaken on this basis. This is consistent with the overarching principle of the

scheme to widen as much as possible along the east - Cobbs Wood industrial estate - side of the road so that traffic is not brought closer to Godinton Park estate houses and so that space is retained for noise mitigation and landscaping to achieve an improvement over the current situation.

### **Alternative Junction**

The only alternative junction considered practicable was for a roundabout instead of traffic signals at Loudon Way and this was presented at the public engagement as a 'rejected alternative'. While a roundabout would have similar capacity to traffic signals, it would have a greater footprint and bring traffic nearer to some houses. It would not give positive control to help Loudon Way traffic to join the dominant flow along the A28 particularly during peak periods and it would be less convenient for pedestrians and cyclists who would need to be taken more into Loudon Way to a safe controlled crossing point. These aspects were accepted at the public engagement.

## **6. DETAILS OF THE ORDER**

The scheme has been designed to avoid bringing traffic closer to people's homes where possible and to minimise land take generally.

Land is only required from one residential property - East Lodge - as a result of an existing width constraint on this section of the A28 and the view that taking land from the opposite commercial property would have a more severe impact on the site businesses compared to the loss of a narrow strip of garden, albeit from a Listed Building.

All remaining land required is generally narrow strips of land from commercial owners and from developer-held land. Discussions have commenced for the voluntary acquisition of the required land and rights.

Some additional areas of land take are required for use in connection with the improvement, namely to facilitate construction of the new railway bridge and the retaining walls on the approaches to the bridge, and elsewhere for the construction of embankments. Rights of access will also be necessary over some adjacent land to allow the Council to inspect and maintain the new railway bridge and retaining walls.

Other land - typically areas of predominantly grass land with occasional trees but not formally designated as public highway - owned by Ashford Borough Council and the Council is being made available by both authorities for the scheme and is therefore not included in the Order.

Land for the new railway bridge is included in the Order but it is anticipated that sufficient rights will be provided by Network Rail under a standard Two Party Bridge Agreement applicable to new third party structures on Network Rail's network.

On the approach to Tank roundabout the scheme crosses land under which the Channel Tunnel Rail Link is in tunnel a few metres below the surface. The Crown and others hold interests in the land. [The Secretary of State for Transport has given

permission for the Crown's interest to be included in the Order]. In practise, because of the underlying tunnel, only the power to construct the road and drainage over the first few metres of depth will be required to be used rather than in relation to the full depth of the land below ground.

Between the mainline railway and Matalan roundabout the scheme crosses the redundant Beaver Lane. The section of Beaver Lane between the Bombardier development site entrance and the A28 is not public highway and is understood to have had its highway rights extinguished in the past as part of an earlier improvement of the A28. The land occupied by the old Beaver Lane is not registered but there is a clear presumption that underlying ownership is with the adjacent landowners under the 'ad medium filum' rule. [The adjacent owners have accepted that presumption and the half widths of the land from old Beaver Lane have been included in the Order as being in their respective ownerships].

## **7. REASONS FOR MAKING THE ORDER**

The background to and practical need for the scheme and the Order have been described above, as well as the lack of alternatives. In addition, the need for improvement of the A28 Chart Road is comprehensively established in local planning and transportation policy. Together these provide the reasons why the Order is required.

### **7.1 Sustainable Communities Plan 2003**

Ashford is identified as a Growth Area.

### **7.2 National Planning Policy Framework**

The National Planning Policy Framework was published by the Department of Communities and Local Government in March 2012. The underlying principle was to place an onus on planning authorities for sustainable local growth and particularly economic growth.

### **7.3 Local Development Core Strategy**

The Local Development Framework Core Strategy was adopted by Ashford Borough Council in adopted in July 2008. This sets out the Council's vision for the Borough expressed through a set of guiding principles. The Core Strategy placed high emphasis on a 'Smartlink' public transport system but this was before the global recession and aspirations had to be tempered as articulated in the subsequent Chilmington Area Action Plan. While the A28 was not specifically mentioned in the Core Strategy, improvement to an equivalent dual carriageway standard had been contemplated as part of a 'Smartlink' system in order to create dedicated carriageway space for buses.

### **7.4 Chilmington Green Area Action Plan**

The Chilmington Green Area Action Plan was adopted by Ashford Borough Council in July 2013 following Examination in January 2013. It is consistent with the National Planning Policy Framework and follows a wide programme of public participation and engagement over many years, typically from 2007 onwards. Further consideration since the Core Strategy identified that up to 5750 new homes was the optimal number for the site and over 1000 jobs. It comments that Chilmington Green is likely



to take at least 25 years to fully build out and that development must be planned and implemented in a comprehensive way that is linked to the delivery of key infrastructure.

It identified that financial contributions would be necessary for the necessary off site infrastructure such as improvements to the highway network.

It acknowledged the on-going primacy of the car as the mode of choice but stated that the creation of a choice of realistic and practical alternative modes is a key transport principle for development at Chilmington Green. Throughout the Core Strategy there is reference to the need to introduce 'Smartlink' - a bus rapid transport system for Ashford. The Area Action Plan stated that since the adoption of the Core Strategy in 2008, the prospect of capital funding from Government for major transport projects such as 'Smartlink' had receded, and there was now a presumption that, for future schemes, promoters will be expected to reduce costs and demonstrate how developer and other private sector funding contributions can be maximised. Therefore, specific components of the 'Smartlink' scheme would now need to be reviewed, re-assessed and delivered incrementally with contributions from developers. It was important that the ability to create a step change in public transport modal share was not lost but that this now needed to be achieved within the scope of resources that can be realistically delivered.

The A28 provides the principal means of access to and from Chilmington Green development area. It is also the primary strategic distributor of traffic to the west/south west of Ashford. The A28 currently experiences peak time congestion on its southern approach to Ashford and improvements to the corridor are necessary to support growth in background traffic as well as supporting the town's growth aspirations as set out in the Core Strategy. As such, a scheme is included in the Council's Local Transport Plan as a strategic scheme to be promoted by the Council.

At Ashford Borough Council's request, the Council as Highway Authority commissioned studies to consider the scale and type of improvements necessary to upgrade the A28 corridor so that it may function at least as well in 2031 as it does currently. A package of junction improvements and link widening was identified and tested, including the traffic impacts from the Chilmington Green development.

These improvements involve the significant upgrading of the A28/B2229 'Matalan' junction and the A28 Chart Road 'Tank' roundabout as well as the dualling of the link between the two junctions. The existing signalised junction with the Godinton Park housing estate (Loudon Way) will also need to be improved.

The improvements listed above can largely be delivered within the existing highway boundary or land within the control of the Council, Borough Council or the Chilmington Green developer consortium. However, where this is not the case, the strategic importance of delivering this infrastructure for the benefit of the town is recognised by the Highway Authority, which stated that, if necessary, compulsory purchase powers would be utilised to ensure all necessary land was available.

It was apparent that the existing capacity of the A28 provides a potential barrier to the unconstrained delivery of the Chilmington Green development. Therefore, any

Transport Assessment associated with an application for the development would need to assess the phasing of the development against the implementation of various off-site highway improvements to the A28 and any other primary or secondary links or junctions within the adjacent parts of the urban road network to ensure that, at least, a 'nil' detriment position is achieved *ie a position where congestion would be no worse than if the development were not taking place.*

Policy CG11 - Highways and access includes inter alia 'Proposals for development at Chilmington Green shall include provision for the following: a) funding to a level to be agreed by the borough and county councils, towards the delivery of a set of off-site improvements to the A28 corridor'

### **7.5 Kent Local Transport Plan 2011-16**

This is Kent's third Local Transport Plan and it was published in April 2011. It refers to significant past progress and sets out the strategy and implementation plans for the local transport investment for the period. The dualling of A28 Chart Road is identified as a prioritised scheme.

### **7.6 Kent and Medway Growth and Infrastructure Framework September 2015**

This was prepared to provide a view of emerging development and infrastructure requirements to support growth across Kent and Medway. The dualling of A28 Chart Road is identified as a scheme required to alleviate existing congestion and facilitate major growth sites.

### **7.7 Kent Local Transport Plan 4 'Delivering Growth without Gridlock' 2016-2031**

This is Kent's fourth proposed Local Transport Plan and the consultation draft was published in July 2016. The Kent and Medway Growth and Infrastructure Framework is the evidence base for this local transport plan. The A28 Chart Road improvement scheme is identified as being critical to the delivery of 5750 houses at Chilmington Green and the reduction in congestion along this route is a priority scheme for both Ashford Borough Council and the Council.

## **8. JUSTIFICATION FOR USING COMPULSORY PURCHASE**

It is still hoped that voluntary negotiations will be successful and completed in a timely manner. However, compulsory purchase is required to give funding and programme certainty, and to ensure that the acquisitions actually take place, and this has been explained to landowners. Local Growth Funding is predicated on a start of main construction in 2018. Railway possessions to allow construction of the new bridge need to be booked well in advance. The scheme is required at the earliest opportunity to mitigate existing traffic congestion and to cater for additional traffic as the Chilmington Green and other developments in south and west Ashford start to come on stream.

If all the land cannot be secured, or secured in a timely fashion, then the scheme cannot be delivered as required. Congestion would not be relieved or relieved at the right time or to the necessary extent, with consequential impacts for Ashford residents and businesses making work, school, shopping and leisure journeys. It is possible that, if the scheme could not proceed as required, some improvements

would have to be implemented incrementally over many years as and when land became available. This would reduce and significantly delay the realisation of the benefits, increase and prolong the adverse traffic impacts suffered, and increase the costs of the works and extend the period of construction inconvenience.

It is considered that there is a clear and compelling case in the public interest to make the compulsory purchase order for the scheme. It is necessary for the land and rights included in the Order to be acquired. The public benefit of the scheme will outweigh the private loss to landowners.

The Council appointed property agents in June 2016 to commence negotiations for the voluntary acquisition of the land and contact has been made with all landowners to endeavour to agree terms and any associated accommodation works.

## **9. DESCRIPTION OF THE ORDER LAND - [tbc]**

Land take in some instances includes land required for use in connection with the improvement of the highway. Rights of access are also required to allow the construction, inspection and maintenance of structures. The land take and rights are described as follows and more particularly in the Order Schedule:

Plot 1 - land take for the road and its supporting embankment including construction working space and for maintenance of landscaping.

Plot 2 - land take for the road and its supporting retaining wall including construction working space.

Plot 3 - land take for the road and its supporting retaining wall including construction working space.

Plot 3A - right of access to construct, inspect and maintain the retaining wall.

Plot 4 - land take for the road and supporting retaining wall including construction working space.

Plot 4A - right of access to construct, inspect and maintain the retaining wall.

Plot 5 - land take for the road, its supporting retaining wall and the new railway bridge including construction working space.

Plot 5A - right of access to construct, inspect and maintain the retaining wall and new railway bridge.

Plot 5B - land take for construction working space for the retaining wall and new railway bridge.

Plot 6 - land take for the road including the new railway bridge.

Plot 6A - right for the road and new bridge to span over the London - Dover railway line.

Plot 7 - land take for the road and the new boundary wall.

Plot 7A - land take for construction working space for the new boundary wall.

Plot 7B - land take for access to facilitate construction of the new boundary wall.

Plot 8 - land take for the road and its supporting embankment.

Plot 9 - land take for the road and its supporting embankment.

Plot 10 - land take for the road and its supporting embankment.

Plot 11 - land take for the road and its supporting embankment including construction working space and for maintenance of landscaping.

Plot 12 - land take for the road and its supporting embankment including construction working space and for maintenance of landscaping.

Plot 13 - land take for the road and the retaining wall including construction working space.

## **10. SCHEME PLANNING STATUS**

The scheme is able to proceed as Permitted Development with Listed Building consent for the relocation of the wall to East Lodge.

### **10.1 The Town and Country Planning (Environmental Impact Assessment) Regulations 2011**

The scheme is contiguous with the existing road but the overall area including existing public highway exceeds 1 hectare and the scheme does affect some grassed areas with occasional trees and hedgerow. A Screening Opinion, under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, was given by the Council's Head of the Planning Applications Group, as the appropriate planning authority, on 29 August 2014. The Opinion determined that the scheme did not constitute Environmental Impact Assessment development and that it could proceed as Permitted Development pursuant to Part 13 (as amended) of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995. The 1995 order has since been replaced and the appropriate reference is now Part 9 (Class A – development by highway authorities) of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015.

Although the scheme, at the time, did not contemplate land take from East Lodge, the environmental impacts on East Lodge were assessed and considered in the Screening Opinion and the approval to relocate the wall has been subject to a specific consent.

Environmental surveys have been undertaken as part of the scheme development and these are being kept under review. Mitigation measures will be undertaken as necessary and agreed with the appropriate authorities.

## **10.2 Listed Building Consent**

Listed Building consent for the relocation and increase in height of the flank boundary wall to East Lodge was granted by Ashford Borough Council on 14 June 2016.

## **11. PUBLIC ENGAGEMENT**

The concept and expectation of the future need to improve the A28 Chart Road has been known locally for many years. Godinton Park estate was set back from the existing road in anticipation of future improvement. The existing railway bridge was improved in 1996 in anticipation that it would be used for the north bound carriageway of a dual carriageway improvement. The extensive consultation around the preparation of the Chilmington Green Area Action Plan and subsequent planning application both featured the need to improve the A28.

A Newsletter No. 1 was widely distributed in early November 2015 giving information about the scheme and inviting people to attend a manned exhibition to be held in Godinton Village Hall on 26 November and 3 December 2015. All comments and queries have been personally responded to and some have led to design adjustments to the scheme or operational traffic management issues that will be considered at the delivery stage.

## **12. FUNDING**

The estimated scheme cost based on a start of construction in 2018/19 is £32m. In July 2014, £10.20m of approval in principle support was provided through the grant by the Department of Transport of Local Growth Funding to the South East Local Enterprise Partnership. This funding was formally confirmed by the South East Local Enterprise Partnership Accountability Board at its meeting on 12 February 2016 following submission of a formal Business Case.

The remaining funding will be provided by the developers of Chilmington Green under a section 278 Agreement. There is another section 106 contribution from the developers of Repton Park. Any further contributions that come forward from other development proposals that are considered necessary to mitigate their impact on the A28 developments will correspondingly reduce the Chilmington Green obligation. The Council has agreed to forward fund the improvement of A28 as one scheme to avoid the inconvenience, extended traffic disruption and commercial inefficiency associated with what would otherwise be incremental improvement of the A28 during the likely 25 year build out period of Chilmington Green. Funding is therefore fully secured.

## **13. KENT COUNTY COUNCIL GOVERNANCE**

The outcome of public engagement was reported to the Ashford Borough Council Joint Transportation Board on 8 March 2016 and by discussion with the Cabinet

Member for Environment & Transport. This concluded with a Record of Officer Action 14/00091 being taken by the Corporate Director for Growth, Environment & Transport on 17 March 2016 and adoption of the preferred scheme to take forward.

The decision to publish a compulsory purchase order is given in an overarching range of decisions in Record of Decision 14/000091 taken by the Council's Cabinet Member for Environment & Transport on 22 September 2014 at the outset of development of the scheme.

An updated range of decisions including a further decision to publish and implement a compulsory purchase order is given in Record of Decision 14/00091A taken by the Council's Cabinet Member for Environment & Transport on [?] September 2016 that followed a report to the Environment & Transport Cabinet Committee on 7 September 2016.

#### **14. OTHER ASPECTS OF DELIVERY**

A section 278 funding agreement with the developers of Chilmington Green is in the final stages of drafting and negotiation and is expected to be completed during 2016.

There are no changes to the existing highway network or changes to private means of access beyond the limits of the scheme and hence a Side Roads Order under section 14 of the Highways Act 1980 is not required.

The Council is in discussion with utility companies about the effect on their plant and any diversion or protection required in accordance with the provision of the New Roads and Street Works Act 1991 and the associated Code of Practice.

The Council is in discussion with SE Power Networks over the acquisition of a small area of special category land included within the Order that is occupied by a small pylon that is to be removed as part of the scheme.

A Two Party Bridge Agreement with Network Rail in respect of the carriageway works that affect the existing railway bridge and for construction of the new railway bridge including the necessary land and rights is in the final stages of drafting and is expected to be completed during 2016.

The Council is in discussion with the Secretary of State for Transport, HS1 Ltd and London & Continental Railways Ltd in respect of securing the necessary rights for the scheme which passes over a Channel Tunnel Rail Link tunnel a few metres below the surface.

#### **15. REGARD TO THE PROVISIONS OF ARTICLE I OF THE FIRST PROTOCOL TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND ARTICLE 8**

The provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been considered, including in particular Article 8 and Article 1 of the First Protocol. As is explained above, consideration has been given to the effects of the scheme and the Order, and to potential alternatives. It has been

concluded that the purposes for which the Order is made sufficiently justify the interference with human rights of those affected, including the owners of the interests in land affected. The Order involves the least interference with the rights of those affected necessary to achieve the objectives of the scheme. The objectives of the scheme could not be met by means which interfere less with the rights of those affected. The interference is proportionate and is justified. In no case does the Order have an excessive or disproportionate effect on the rights of those affected.

In addition to what is considered above, the following points can be noted.

The scheme has been widely publicised and the opportunity given to comment. All those affected by the Order will be informed by press, public notices and letter as appropriate and will have the right to make representations to the Secretary of State.

With the exception of a narrow strip of land being required from East Lodge garden, and a strip of land from a field associated with a residential property, all the other land is held for existing or potential commercial and retail use. No buildings are taken and the land in current operational use is generally paved hardstanding or car parking. It is considered that there is minimum interference with the human rights of the landowners whose land is required and that the use of compulsory purchase is justified.

There has been extensive engagement with the owners of East Lodge during the development of the scheme. From the outset they stated their likely intention to move home irrespective of the scheme and the house is currently on the market. If they cannot secure a sale at market value then the Council has indicated a willingness to accept a valid blight notice and step in as purchaser. It is therefore considered that there will be no interference with the human rights of the owners. Any purchasers would acquire the property with full knowledge of the scheme.

The benefits of reduced congestion and improved journey reliability for the wider community will also benefit the commercial and retail owners from whom most land is required. The public benefit of the use of compulsory purchase significantly outweighs the private loss associated with the land being taken.

On either side of the new railway bridge, retaining walls have been selected to support the new road in preference to earth embankments that would have required a significantly greater area of land from the commercial and retail land owners. It is therefore considered that the proposed compulsory purchase is for the minimum amount of land required for the scheme and achieves minimum interference for the land owners and use of their retained land.

The scheme includes extensive noise mitigation and replacement and enhanced landscaping. The design aims to ensure that noise levels for residents under accepted standards of assessment will be improved in both the short and medium term compared to the situation that would prevail with the existing road.

No properties have been found to be eligible for noise mitigation measures under the Noise Insulation Regulations 1975.

An air quality study under accepted standards of assessment has also indicated that with the improved road there will be no detriment in air quality in both the short and medium term.

Vehicular access to all homes will be unchanged. Pedestrian and cycling facilities will be improved by the provision of a continuous segregated footway and cycleway along both sides of the road together with additional controlled crossing points.

The existing road has street lighting and the improved road will also be lit. New light emitting diodes (LEDs) with shielded lanterns will be provided as part of the scheme.

There may be temporary impacts at some stages during the construction period. The contractor will be required to comply with normal environmental thresholds agreed with Ashford Borough Council's Environmental Health Officer and particularly in respect of noise and dust. Most construction will be carried out during normal working hours but some activities associated with the new railway bridge and road surfacing may need to be carried out at night. These aspects will be discussed with residents at the time. It is possible that some residents living close to the new railway bridge may be offered noise insulation to mitigate the temporary effects of construction and there may be occasions depending on activity and personal circumstances where alternative overnight accommodation will be offered.

Residential home owners who consider that the value of their property has been affected by physical factors, such as traffic noise, artificial lighting or fumes arising from use of the scheme may be able to make a claim for compensation under Part 1 of the Land Compensation Act 1973.

## **16. EQUALITIES IMPACT ASSESSMENT**

An Equalities Impact Assessment was prepared and signed off by the Council's Highways & Transportation senior management on 9 June 2015. There are not considered to be any 'Adverse' impacts and both positive and negative impacts are considered to be 'Low'. Public engagement and specific contact with the Kent Association for the Blind, the Guide Dogs Association and Ashford Access Group has been carried out and will be on-going in accordance with the Action Plan.

The scheme has not changed in any significant way from the initial proposal and the Equalities Impact Assessment remains valid. However, it is a live document and the opportunity has been taken to update it and the current version was signed off by the Council's Highways & Transportation senior management on 4 July 2016.

The Equalities Impact Assessment was considered by the Council's senior officers and members, and the Cabinet Member when taking the decisions in September 2016 for the delivery of the scheme including the use of compulsory purchase powers.

## **17. INSPECTION OF DOCUMENTS**

The following documents are available for public inspection from 9.00 - 17:00 on week days at:



Kent County Council, Main Reception, County Hall, Maidstone, Kent ME14 1XQ.

Kent County Council, Highways & Transportation Offices Reception, Henwood Industrial Estate, Javelin Way, Ashford, Kent TN24 8DH.

Ashford Borough Council, Ashford Gateway Plus, Church Road, Ashford, Kent TN23 1AS.

The documents [tbc] are:

- a. the Order
- b. the Order Plan
- c. the Order Schedule
- d. Record of Decision 14/00091 - 22 September 2014
- e. Record of Officer Action - 23 October 2015
- f. Record of Officer Action - 17 March 2016
- g. [Record of Decision - ? September 2016]
- h. Copy of Report and Minute of Ashford Joint Transportation Board meeting - 8 September 2015
- i. Copy of Report and Minute of Ashford Joint Transportation Board meeting - 8 March 2016
- j. Preferred Scheme Plan - Drawing No. 4300246/000/79 Rev1
- k. Copies of Newsletters No 1 November 2015 and [No.2 September 2016]
- l. Preliminary Environmental Assessment - July 2014
- m. Screening Opinion by Head of Planning Application Group - 29 August 2014
- n. East Lodge Listed Building Consent - 14 June 2016
- o. Equalities Impact Assessment - 4 July 2016;
- p. Road Safety Audit Stage 1 - 1 November 2015
- q. Noise and Vibration Assessment Report Rev 0 - November 2015

- r. Flood Risk Assessment and Drainage Strategy Report Rev 4 - November 2015
- s. Landscape and Visual Assessment Report Version 3 - March 2016
- t. Air Quality Technical Review Report Rev 0 - April 2015
- u. extracts from the Kent Local Transport Plan 3 (2011-2016) - April 2011;
- v. extracts from the Kent Local Transport Plan 4(2016-2031) - Consultation Draft July - 2016
- w. extracts from Kent and Medway Growth and Infrastructure Framework - September 2015;
- x. extracts from Ashford Borough Council Local Plan
- y. LEP Business Case - January 2016
- z. LEP Accountability Board Funding Approval - 12 February 2016

The documents can also be viewed on Kent County Council's web site: visit <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/roads/road-projects/a28-chart-road-improvement-scheme>.

## **18. CONTACT DETAILS FOR FURTHER INFORMATION**

Interested parties affected by the Order who wish to discuss matters with the Council should contact Barry Stiff - Project Manager (Major Projects) or John Farmer - Project Manager (Major Projects) by either:

telephone - Barry Stiff on 03000 419377 or John Farmer on 03000 411634

e mail to [chartroadmajorproject@kent.gov.uk](mailto:chartroadmajorproject@kent.gov.uk)

post to Kent County Council, Highways, Transportation & Waste, Invicta House, County Hall, Maidstone, Kent, ME14 1XX