



Report to the Secretary of State for Transport

By N R Taylor, BSc, CEng, MICE, MIHT

An Inspector appointed by the Secretary of State for Transport

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Date: 24/06/2008

HIGHWAYS ACT 1980

ACQUISITION OF LAND ACT 1981

OLDHAM METROPOLITAN BOROUGH COUNCIL

**THE OLDHAM (LEES ROAD OLDHAM) COMPULSORY
PURCHASE ORDER 2007**

Date of Inquiry: 17 June 2008

Ref: DN5035/60/1/81

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CASE DETAILS

- This draft order is made under Section 239 (3) of the Highways Act 1980 and is known as The Oldham (Lees Road Oldham) Compulsory Purchase Order 2007.
- The Order was made on 18 December 2007, and there was one objection outstanding to it at the commencement of the local inquiry.
- The Order would authorise the acquisition of land for the purpose of
 - i. the improvement of the radii at the highway junctions to Lees Road/Mount Pleasant Street (east side) and Lees Road/Moorhey Street (east side);
 - ii. the improvement of footway between 148-156 (even numbers) and 260-322 (even numbers) Lees Road;
 - iii. the improvement of highway at land to the west of and adjacent to 326 Lees Road and to the rear of 326 Lees Road.

Summary of Recommendation: I recommend that the Order be confirmed with modifications.

1 PREAMBLE

- 1.1 I have been appointed pursuant to Paragraph 7 of Schedule 1 to the Highways Act 1980 to hold a public local inquiry into the above Order, and to report to the Secretary of State for Transport.
- 1.2 I held the inquiry at the Civic Centre, West Street, Oldham OL1 1UL on 17 June 2008. I made an unaccompanied site inspection on 16 June 2008.
- 1.3 There was 1 statutory objection to the Order at the start of the inquiry.
- 1.4 The effect of the Orders would be to provide for:
- a. The widening of the carriageway on the south side of Lees Road to provide lay-bys for vehicle parking;
 - b. The improvement of the Lees Road/Mount Pleasant Street/Moorhey Street junction; and
 - c. The provision of additional parking spaces on land to the rear of 322 and 326 Lees Road and the improvement of the access to this area.

- 1.5 The main grounds of objection relate to the impact that the proposals would have on individual properties and that other solutions should be adopted.
- 1.6 At the inquiry the Borough Council confirmed that all statutory formalities had been complied with.
- 1.7 The statutory objector did not appear nor was represented at the inquiry. At the start of the inquiry I requested that the promoter contact the objector and/or the agent to ascertain whether the objector intended to appear, or to be represented. I gave a short adjournment for this. The promoter reported that the objector could not be contacted, and that the objector's agent was not in a position to clarify attendance. In the absence of the objector or his agent, I proceeded with the inquiry on the basis that the objector did not intend to appear or be represented. I then made a further request for the promoter to contact the objector or his agent before closing the inquiry, with the same result. However, the agent was able to confirm that they would have contacted the promoter if unavoidably detained from attending the inquiry. The promoter confirmed that this had not been done.
- 1.8 Having opened the inquiry at 10:00 hours and closed at 11:20 hours, I consider that all reasonable steps had been taken to ensure that the objector had had an opportunity to present the case. I have therefore dealt with the one outstanding case as a written objection.
- 1.9 It follows that I was unable to conduct an accompanied site visit.
- 1.10 This report contains a brief description of the site of the proposals (the subject of the Order) and its surroundings, the gist of the case presented and my conclusions and recommendations. Lists of inquiry appearances, documents and plans are attached. I have included in the list of documents the proofs and other statements of evidence submitted by the parties, subject, however, to the proviso that these may have been added to or otherwise amended at the inquiry.

2 DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 2.1 The site of the proposals can be conveniently seen on the plan at document CD2, and in more detail on the plan at document CD6.
- 2.2 Lees Road is located to the east of Oldham and the section which is the subject of the Order is situated some 2 km from the town centre. This part of the road is urban in character and has development on both sides. There are numerous junctions with side roads along its length.
- 2.3 At the eastern end of the scheme, from Balfour Street to Clarksfield Road, the north side of the road comprises rows of terrace houses with small gardens which front on to a footway alongside the carriageway. On the south side the properties comprise individual retail premises which front on

to a wide footway.

- 2.4 To the west of Balfour Street, there is a row of retail premises on the north side of the road; on the south side there is miscellaneous commercial development.
- 2.5 The road consists of a 2-lane carriageway on which parking is permitted on parts of the south side outside of peak times. Parking is not permitted on the north side. There is local widening at the Mount Pleasant Street/Moorhey Street junction, at the western end of the proposed scheme, to accommodate right turning vehicles.
- 2.6 This section of road contains two signal controlled pedestrian crossings (pelican crossings) near Balfour Street and Red Hill Street, and a number of bus stops. It is lit and is subject to a speed limit of 30 miles per hour.

3 THE CASE FOR OLDHAM METROPOLITAN BOROUGH COUNCIL

The material points are:

Background and need for the scheme

- 3.1 Lees Road, from Mount Pleasant Street to No 322 Lees Road, is part of a Quality Bus Corridor between Uppermill, Oldham and Manchester City Centre (shown on document CD2). The aim of the Corridor is to bring greater reliability and accessibility to bus travel. The proposal is the last scheme in the corridor to be implemented under the Quality Bus Corridor funding programme.
- 3.2 The road suffers from congestion due to its narrow carriageway. The Lees Road Quality Bus Corridor Feasibility Study (final report at document CD3) carried out in June 2006 found that traffic congestion on Lees Road causes delays to buses and general traffic, is a safety hazard to pedestrians and cyclists, and affects the economic viability of the businesses in the immediate area.
- 3.3 Key problems in the morning peak period are slow moving traffic with associated congestion, and delays affecting traffic travelling inbound towards Oldham Town Centre on the predominantly narrow carriageway of Lees Road particularly between Brewerton Road and Gibson Street (the location of these is shown on document CD6).
- 3.4 Outside of the morning peak period parked cars and vehicles on the inbound carriageway impede traffic flow and reduce the speed of buses by the necessity of having to pass stationary vehicles parked in limited waiting bays on the south side of the carriageway. The existing parking arrangements are shown in document CD5.

- 3.5 The study concluded that it was important that the viability of the local shopping area in terms of trading is supported and promoted by maintaining the existing parking and servicing activity, and by improving the general bus stop environment, associated footway areas and parking provision.
- 3.6 A Supplementary Study of the Lees Road and Mount Pleasant Street/Moorhey Street junction (document CD4), carried out in July 2006, addressed the number of accidents taking place at this point. It concluded that the existing right turn facility for vehicles turning into Moorhey Street is also used by vehicles making the right turn from Lees Road into Mount Pleasant Street, causing potential conflict between the two sets of right turners and a potential safety issue. The report recommended the repositioning of the Mount Pleasant approach and the creation of right turn facilities from Lees Road in order to improve safety and regulate these movements.

The scheme

- 3.7 Details of the proposed scheme are shown on the drawings at document CD6.
- 3.8 The scheme would involve the widening of the carriageway on the south side to provide for vehicle parking. To achieve this, the existing footway would be reduced to some 2.5 metres wide at points where parking bays would be provided. It would be necessary to acquire a strip of land averaging some 1.7 metres wide from each of the properties. This strip would subsequently form part of the adopted footway under which the existing services would be diverted. Compulsory Purchase Order plots 3 to 38 inclusive would be required for this.
- 3.9 The junction of Lees Road with Mount Pleasant Street and Moorhey Street junction would be improved by increasing the radii and reducing the stagger of the two side roads. This would result in improved visibility. Better right turn facilities at the junction would also be provided. Plots 1 and 2 would be required for this.
- 3.10 Improvements would be made to Cranbrook Place, adjacent to No 326 Lees Road to provide access to additional parking which would be provided on land largely owned by the Council to the rear of Nos. 322 & 326 Lees Road. Plot 39 would be required for this; plot 40 would be required for providing that part of the proposed car park not located on land owned by the Council.
- 3.11 The scheme would also include the upgrading of the two existing pedestrian crossings to "Puffin" crossings. The Puffin system uses a 'smart system' that uses heat sensors to detect whether pedestrians are waiting on the pavement and can override the red light shown to drivers. This system would reduce the likely impact on traffic flows. No additional land would be required for this part of the scheme.

Likely benefits of the scheme

- 3.12 Public transport - The improvements would upgrade the waiting environment, facilitate disabled access to buses at the bus stops, and provide unimpeded bus movement by the provision of clearway markings. Weather protection would be provided together with raised paving to aid level access.
- 3.13 Cyclists - Improved safety through the busy commercial/residential area would be provided by rationalising highway parking. This would be achieved by removing parked vehicles from the road, thereby assisting buses in overtaking cyclists safely.
- 3.14 Pedestrians – The scheme would improve safety and convenience by reducing crossing widths and upgrading the existing pelican crossing. The provision of tactile paving at crossing points would assist disabled people and the elderly.
- 3.15 Accident savings - The scheme would reduce injury accidents by upgrading the pedestrian crossing and realigning the junction.
- 3.16 Economic benefit - The scheme would contribute to the amenity of the local business centre by providing dedicated servicing and parking bays; off-street parking; improved street lighting and refurbished footways and carriageways. The parking bays would provide safe parking for shoppers in close proximity to businesses and so encourage passing trade. They would also assist the safe delivery of goods. A dedicated parking bay would be provided on Cranbrook Street for delivery vehicles accessing the supermarket store at 288/290 Lees Road, removing the need for these to park on Lees Road.

Scheme cost and funding

- 3.17 The scheme is estimated to cost some £466,000 (document ID4) at a price base of Quarter 1, 2008. This includes land acquisition costs, statutory undertakers equipment, as well as design costs. The scheme would be funded from the Council's highway maintenance budget and the town centre regeneration budget (document ID4).
- 3.18 The Lees Road Quality Bus Corridor Feasibility Study Report (document CD3) assessed the economic performance of the scheme as having a net present value of some £3.394m and a benefit to cost ratio of some 14.04:1. These benefits would largely arise from savings in bus passenger time and car user time.

Policy and Planning position

- 3.19 Planning permission (reference PA/053734/07) was granted for the proposed car parking area to the rear of 322 & 326 Lees Road on 26

September 2007 (document ID3). No other planning permission, nor any other statutory procedures, would be required to authorise the works.

3.20 The scheme is included in the current Local Transport Plan.

Environment

3.21 An Environmental Statement has not been produced for the scheme. The interim executive director's report to cabinet dated 16 April 2007 (document ID11) indicated that no adverse environmental impacts would be likely to arise from the scheme.

Consultation

3.22 Consultation has taken place with all affected residents and businesses on Lees Road. In December 2006 a leaflet showing the scheme proposals and a questionnaire was sent inviting responses to the proposed scheme. Out of around 350 leaflets distributed, some 20 responses were received. Only one respondent opposed the scheme on the grounds of the likely disturbance that would be caused as a result of the works. The Greater Manchester Police, Greater Manchester Passenger Transport Executive, Greater Manchester Fire Service, Greater Manchester Ambulance Service and local ward councillors were consulted and were all in agreement with the scheme proposal.

Modifications

3.23 The Council has suggested 2 modifications to the Order: -

- i. To delete the area coloured blue on the plan at document CD9 from the land to be acquired in plot 1. In column 2 of Table 1 of the schedule to the Compulsory Purchase Order, Plot 1, delete "59.7 square metres" and insert "24.88 square metres".

This proposed modification results from changes to the layout of the junction to accommodate concerns by the owner of the land that the scheme would reduce its proposals to extend the car park. The reduced area would provide the opportunity to extend the car park and there would be no loss of car parking space as result. As a consequence of this change, the owner has withdrawn the objection (document ID8).

- ii. In column 2 of Table 1 of the schedule to the Compulsory Purchase Order, Plot 22, delete "25.48 square metres" and insert "16 square metres". This is to reflect a drafting error.

4 WRITTEN OBJECTION

The material points are:

4.1 Risebrook Properties Limited is a lessee of premises at 262 Lees Road (Lees Road Pizza). Land proposed to be acquired from this interest is included in Plot 9. It objects to the proposals on the grounds that: -

- Its land is not necessary for the scheme;
- A reduction in the width of the footway would jeopardise the health and safety of users contrary to paragraph 4.3.5.3 of the Statement of Reasons (document CD10);
- Traffic calming measures would achieve the same aim without the need to take the land;
- There is no evidence that the proposals would solve the problem of traffic congestion;
- There is no evidence of accidents at the junction of Lees Road and Mount Pleasant Street/Moorhey Street being caused by poor visibility;
- Any widening should be undertaken on the opposite side to the shops and thereby avoid the necessity of taking land from in front of the shops on Lees Road;
- Ease of access to the shops would be restricted and harm business interests; and
- The scheme would be an infringement of human rights.

5 REBUTTAL BY OLDHAM METROPOLITAN BOROUGH COUNCIL

The promoter's response to the objection is given in the main proof of evidence and summary proof (documents ID6 and ID7).

The material points are:

5.1 The land is required for the Scheme and diversion of services presently within the footway. Without it the number of parking bays required would be compromised and maximum parking provision would not be achieved. Further, to exclude it would mean that it would not form part of the adopted highway and maintenance could not be controlled. The viability of the businesses should improve because parking will be safer in dedicated bays. This should increase passing trade.

- 5.2 In line with highway guidance a minimum width of 2.5 metres would be maintained throughout the scheme that would not compromise pedestrian safety.
- 5.3 Lees Road is a Class A road to and from the Town Centre and traffic calming measures are considered unnecessary in accordance with Department for Transport guidelines. The current provision already includes control by traffic regulation but this is not effective as evidenced by the Lees Road Quality Bus Corridor Feasibility Study (report at document CD3). Only by relieving the highway of traffic parked on it could the congestion be removed.
- 5.4 The Study concluded that slow moving traffic and associated delays affects vehicles travelling in the Town Centre direction on the predominantly narrow carriageway of Lees Road between its junction with Brewerton Road and Gibson Street. Parked cars and vehicles on the inbound road impede traffic flow and increase bus journey times by having to negotiate vehicles parked within the carriageway on the south side. The Council's scheme has been designed to alleviate this and increase traffic flow.
- 5.5 In the past 5 years there have been 7 recorded personal injury accidents at the Mount Pleasant Street/Moorhey Street junction (document CD3, Appendix D).
- 5.6 The footway on the opposite side of the shops is some 2.5 metres wide and any reduction in this width would severely jeopardise the safety of pedestrians using it. Ease of access to the shops would be restricted and harm business interests.
- 5.7 It is important for the viability of the local shopping area in terms of trading that existing parking and serving activity is maintained. Safe off-road parking would be beneficial to customers.
- 5.8 In light of the public benefit that would arise from the implementation of the Scheme, the Council has concluded that it would be appropriate to make this Order. It does not regard the Order as constituting any unlawful interference with individual property rights. Any interference is lawful and proportionate and in accordance with the Human Rights Act.

6 CONCLUSIONS

- 6.1 Bearing in mind the submissions and representations I have reported, I have reached the following conclusions, reference being given in brackets to earlier paragraphs where appropriate.
- 6.2 If I am to recommend that the Compulsory Purchase Order be made, I need to be satisfied that: -
- there is a compelling case for acquisition in the public interest;
 - that this justifies interfering with the human rights of those with an interest in the land affected, having regard, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights;
 - that the acquiring authority has a clear idea of how it is intending to use the land it seeks to acquire, that all the land is required for the purpose of the scheme and that the acquisition is not premature;
 - that it can show that all necessary resources to carry out its plans are likely to be available within a reasonable timescale; and
 - that the scheme is unlikely to be blocked by any impediment to implementation.
- 6.3 The clear evidence is that the presence of parked vehicles on this section of Lees Road causes unacceptable congestion and delays to all vehicles, including buses [3.2]. None of the evidence put to me challenges this, and I saw nothing on my site inspection that would lead me to a different conclusion.
- 6.4 It seems to me that the proposed scheme would address this problem by providing facilities for vehicles to park away from the carriageway in a location designed to accommodate the needs of local businesses [3.16].
- 6.5 The scheme would also address safety concerns caused by the layout of the junction of Lees Road with Mount Pleasant Street and with Moorhey Street by realigning the junction [3.6 & 3.9].
- 6.6 I have noted the objection that land at No. 262 Lees Road is not necessary for the scheme [4.1]. I am, however, satisfied that in order to carry out the works as proposed, the land would be required to construct the parking bays, divert existing services and carry out future maintenance [5.1]. No evidence has been put forward to indicate how the scheme could proceed without this acquisition. I conclude on the need to acquire land compulsorily in dealing with the tests which I have set out in paragraph 6.2.
- 6.7 I have also noted the objection that a reduction in the width of the footway

would jeopardise the health and safety of users contrary to paragraph 4.3.5.3 of the Statement of Reasons [4.1]. I note that a width of 2.5 metres would be provided and that this is the same width as the footway on the opposite side of Lees Road and is in line with highway guidance [5.2]. I do not consider that this width, particularly as it would be separated from the carriageway by the parking bays, would constitute a hazard for the health and safety of pedestrians.

- 6.8 I have considered whether traffic calming would achieve the same aim. However, there is no evidence to show how this would resolve the conflict between passing traffic and vehicles parked on the carriageway. Furthermore the provision of traffic calming measures is not considered necessary under Department for Transport Guidelines [5.3]. My conclusion is that this would not achieve the aims of the scheme.
- 6.9 The Lees Road Quality Bus Corridor Feasibility Study makes it clear that the scheme would have substantial benefits in reducing traffic, with a likely net present value of some £3.394m and a benefit to cost ratio of some 14.04:1, due to savings in bus passenger and car user time [3.18]. It seems to me that there is adequate evidence that the scheme would provide significant benefits from the likely reduction in congestion.
- 6.10 In terms of the evidence on accidents at the junction of Lees Road and Mount Pleasant Street/Moorhey Street, this is that there have been 7 personal injury accidents in 5 years [5.5]. I accept that I can find no substantive evidence of accidents being caused by poor visibility. However I am satisfied that there is a potential safety issue caused by the conflict between two sets of right turning vehicles at the junction [3.6], and although there is no evidence as to the reduction in the number of accidents that the scheme might produce, I have formed the opinion that the proposed layout would be appropriate and would reduce the risk of conflict at this location.
- 6.11 I have considered whether it would be appropriate to widen the carriageway on the opposite side of Lees Road as suggested by the objector. However, the footway on this side is only some 2.5 metres wide, similar to that proposed for the reduced width if the scheme were to proceed [5.6]. There is therefore no scope for further reduction; moreover the result would be that parked vehicles would be on the wrong side of the road for access to the retail premises. In my view this would be a serious disadvantage and I conclude therefore that this would not be an appropriate solution to the issues on Lees Road.
- 6.12 Whilst the reduction might be considered to restrict access to shops, it is my view that any such restrictions would be more than balanced by the improvement that the scheme would bring by providing safer parking with reduced congestion on Lees Road. I do not therefore consider that this would result in an unacceptable restriction on access or cause undue harm to businesses on Lees Road.

- 6.13 In terms of human rights, no evidence is put forward on the nature of any likely infringement. In my view, the acquisition of land from the objector would have limited impact, given that the land is already used as a footway. Moreover, the very substantial benefits that the scheme would provide would, in my opinion, outweigh any likely harm.
- 6.14 In terms of the tests I have set out in paragraph 6.2, the scheme would deliver significant benefits to both bus passengers and car users who travel along Lees Road. These benefits are calculated to outweigh the cost by a substantial amount. In addition, there would be the potential for safety benefits arising from the re-aligned junction at Mount Pleasant Street/Moorhey Street and the introduction of new pedestrian crossings [3.9 & 3.15]. There would be little or no environmental impact [3.21] and I conclude therefore that there is a compelling case for acquisition in the public interest. I further conclude that the benefits which would arise would justify the interference with the human rights of those with an interest in the land affected, having regard, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights.
- 6.15 It is clear to me from the detailed evidence presented on the scheme that the acquiring authority has a clear idea of how it is intending to use the land it seeks to acquire. I am satisfied that, with the proposed modification to plot 1, all the land is properly required for the scheme [3.8, 3.9, 3.10 & 3.23].
- 6.16 The scheme would be the last scheme in the corridor to be implemented in respect of the Quality Bus Corridor [3.1]. Detailed funding proposals have been put forward for the scheme [3.17] and the scheme is included in the Local Transport Plan [3.20]. I am therefore satisfied that the acquisition is not premature, and that the Council has the necessary resources to carry out the scheme within a reasonable timescale and I so conclude.
- 6.17 All necessary planning permissions have been granted and no other statutory procedures are required [3.19], I therefore conclude that the scheme is unlikely to be blocked by any impediment to implementation.
- 6.18 I have considered the modifications proposed by the Council and I agree that these are appropriate and I therefore conclude that the Order should be modified as follows:
- i. Delete the area coloured blue on the plan at document CD9 from the land to be acquired in plot 1. In column 2 of Table 1 of the schedule to the Compulsory Purchase Order, Plot 1, delete "59.7 square metres" and insert "24.88 square metres"; and
 - ii. In column 2 of Table 1 of the schedule to the Compulsory Purchase Order, Plot 22, delete "25.48 square metres" and insert "16 square metres".

6.19 I conclude that the Order should be confirmed with these modifications.

7 RECOMMENDATION

7.1 I recommend that: -

The Oldham (Lees Road Oldham) Compulsory Purchase Order 2007 be modified as detailed in paragraph 6.18 and that the Order so modified be confirmed.

N R Taylor

N R Taylor

INSPECTOR

APPENDIX 1

APPEARANCES

For Oldham Metropolitan Borough Council

Mr A Evans

Group Solicitor, Oldham Metropolitan
Borough Council, Civic Centre, West
Street, Oldham OL1 1UL

He called:

Mr K Mistry, BSc., CEng.,
MICE.

Transportation Officer, Strategic
Transportation Section, Regeneration
Directorate, Oldham Metropolitan
Borough Council

APPENDIX 2

DOCUMENTS

Inquiry and pre-inquiry documents

- ID 1 Application from Mr Hussain for a Licence to display goods on the highway.
- ID2 Letter of withdrawal from Mr. R Hussain.
- ID3 Copy of notice of decision in respect planning application for car parking at Cranbrook Place, to rear of 322 and 326 Lees Road Oldham.
- ID4 Cost details of scheme.
- ID5 Details of likely safety benefits of the scheme.
- ID6 Proof of evidence of Mr Mistry.
- ID7 Summary proof of evidence of Mr Mistry.
- ID8 Letter dated 28 May 2008 withdrawing the objection from OTC Training.
- ID9 Statement of Case.
- ID10 Scheme plans referred to in Statement of Case.
- ID11 Cabinet report dated 16 April 2007.
- ID12 Cabinet report dated 26 November 2007.
- ID13 Oldham Metropolitan Borough Council Unitary Development Plan, adopted 14 July 2006.
- ID14 Letter dated 4 February 2008 from Roger Hannah & Co. on behalf of Risebrook Properties Ltd. objecting to the scheme.
- ID15 Notice of inquiry.

Core documents

- CD1 Compulsory Purchase Order and Map.
- CD2 Plan showing the Oldham section of the Quality Bus Corridor.
- CD3 The Lees Road Quality Bus Corridor Feasibility Study – Final Report.
- CD4 The Lees Road Quality Bus Corridor Feasibility Study – Final Report – Assessment of Lees Road at its junction with Moorhey Street and

Mount Pleasant Street.

- CD5 Plan showing existing parking arrangements outside the shops.
- CD6 Proposed Scheme plan No. 860007/100/05.
- CD7 Letter dated 30 April 2008 from Harold Stock & Co. withdrawing the objection on behalf of Frank Whitehouse Limited.
- CD8 Plan showing proposed Lees Road/Moorhey Street junction improvement and the proposed car park for the training college.
- CD9 Plan showing the land proposed to be excluded from the Compulsory Purchase Order.
- CD10 Oldham Metropolitan Borough Council - Statement of Reasons.