

Department for
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Addressee as on envelope

Dear Sir or Madam,

**HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981
A1 ELKESLEY JUNCTIONS IMPROVEMENT**

1. We are directed by the Secretary of State for Transport and the Secretary of State for Communities and Local Government, (“the Secretaries of State”), who act jointly in these matters, to refer to the concurrent public Inquiries (“the Inquiry”) held at the Village Hall, Elkesley, between 19 July 2011 and 21 July 2011, before Mr J P Watson, BSc, MICE, FCIHT, MCMI, an independent Inspector appointed by the Secretaries of State, to hear objections to, and representations about, the following draft Orders:

THE A1 TRUNK ROAD (ELKESLEY JUNCTIONS IMPROVEMENT)
ORDER 20 (“the Slip Roads Order”);

THE A1 TRUNK ROAD (ELKESLEY JUNCTIONS IMPROVEMENT) SIDE
ROADS ORDER 20 (“the Side Roads Order”); and

THE A1 TRUNK ROAD (ELKESLEY JUNCTIONS IMPROVEMENT
COMPULSORY PURCHASE) ORDER (No()) 20 (“the CPO”).

This letter conveys the Secretaries’ of State decision on the published Orders, following consideration of the Inspector’s report.

2. These draft Orders, if made, would provide for a new two-level all movements junction northwest of Elkesley that will include a local link road between Coalpit Lane and Jockey Lane carried over the A1 on a bridge to improve access to Elkesley. The published scheme, which includes associated new side roads and slip roads, extends over a distance of some 2 kilometres along the A1. This scheme is described in more detail at paragraphs 4.2.1 to 4.2.10 of the Inspector's report. The draft CPO would provide for the acquisition of land and rights necessary to carry out these works ("the published scheme").

THE INSPECTOR'S REPORT

3. A copy of the Inspector's report is enclosed. In this letter, references to paragraph numbers in the Inspector's report are indicated by the abbreviation "IR".

4. The Inspector recorded at IR 1.4 that there were nine objections remaining to the Orders at the start of the local inquiry and 24 parties made representations in support of the scheme.

5. The Inspector concluded at IR 9.1.2, IR 9.1.3 and IR 9.5.5 that he was satisfied that the principle of the scheme as set out in IR 9.1.1 had merit and its stated objectives would be met, benefitting the people living in the area or visiting, and for the many thousands of people who use this part of the A1 each day. He went on to recommend at IR 10 that the Slip Roads Order should be made as drafted, and the Side Roads Order and the CPO modified as indicated in IR 10.2, be then made.

THE DECISION OF THE SECRETARIES OF STATE

6. The Secretaries of State have carefully considered the Inspector's report together with all the objections, alternative proposals, counter objections, representations and expressions of support made, both orally and in writing. In reaching their decision, they have also considered the requirements of local and national planning, including the requirements of agriculture.

Environmental Statement

7. It is noted at IR 4.4.1, IR 4.4.2 and IR 9.1.4 that the Secretary of State for Transport gave notice on 26 February 2009 that the proposed scheme, which is a relevant project within the meaning of section 105(A)(1) of the Highways Act 1980, is not subject to an environmental impact assessment, in accordance with Part VA of the Highways Act. However, notwithstanding that decision, studies and assessments were undertaken in accordance with

the Design Manual for Roads and Bridges and presented in evidence at the inquiry. The Secretaries of State are satisfied that members of the public and others concerned have been given reasonable opportunity to express their opinion on the environmental assessments.

Decision on the published draft Orders

8. The Secretary of State for Transport is satisfied that the published scheme is consistent with the Government's transport policy objectives.

9. The Secretaries of State are also satisfied that the Inspector's conclusions cover all material considerations relevant to the scheme as a whole, and accept his recommendations, subject to the comments in the following paragraphs.

Matters arising

10. The Secretaries of State, in considering the Inspector's report, make the following comments on matters raised in the report:

Procedural Matters

11. The Secretaries of State note the Inspector's findings at IR 3.1.1 to IR 3.1.3 regarding alternative route proposals and the procedure for handling these. The Secretaries of State further note that the Greaves family, in their letter of 19 January 2010, expressed a belief that an alternative scheme could be designed which would cause less effect at a much lower cost. However, for the reasons stated by the Inspector at IR 3.1.3 about the absence of any timely details to support this, the Secretaries of State fully accept the Inspector's ruling in not further considering this alternative, and for the same reasons have also not taken this in to account in their decision.

Objections Relating to the Environmental Effects of the Scheme

12. The Secretaries of State note the Inspector's findings and conclusions at IR 9.2.1 to IR 9.2.3 regarding concerns about the environmental effects of the published scheme. These include those made by Mr Paul Headland at IR 6.2 about increase in traffic in Twyford Lane and the increased risk of damage to buildings there; those of Mr Greaves at IR 6.3 and others in written representations about the proposed drainage soakaways; and Mr Gay's concerns at IR 6.5 on various matters relating to the environment at The Gables.

13. The Secretaries of State agree with the conclusions reached by the Inspector on each of these matters, and for the reasons he has given, accept

his overall conclusions in IR 9.2.4 that the proposed scheme would have no appreciable harmful effect on the environment and would be acceptable in that respect.

Access to Tea Table Cottage (Mr & Mrs Swann)

14. The Secretaries of State note the concerns of Mrs Swann reported at IR 6.7.1 and her suggestion that an alternative access to Tea Table Cottage should be adopted, and the Highways Agency response to this at IR 4.2.5 and IR 8.7.1 to IR 8.7.5. It is a matter of law and a mandatory requirement under section 125(3) of the Highways Act 1980 that no Order authorising the stopping-up of a means of access to premises shall be made unless the Secretaries of State are satisfied that, either no access to the premises is reasonably required, or that another reasonably convenient means of access to the premises is available or will be provided. However, on the evidence before them the Secretaries of State are satisfied that proposed alternative access in the published scheme would meet this requirement. Nevertheless, having considered the concerns of Mrs Swann and taken into account the findings and conclusions of the Inspector at IR 9.3.4 to IR 9.3.8, the Secretaries of State have decided to accept the Inspector's conclusion at IR 9.3.9, for the reasons he has given, that the private means of access to Tea Table Cottage and Plantation shown in Appendix D of document HA/R2 (drawing number 1027062/P/113 version C) should be substituted for the alternative proposed by the Highways Agency in the published scheme. This change can be accommodated within the published draft Orders and would, as reported at IR 9.3.9, result in a reduction in land-take in the CPO.

Compulsory Purchase Order – Plot 4a

15. The Secretaries of State note that it has been reported at IR 4.4.18, IR 7.1.2 and IR 9.5.16 that plot 4a included in the draft CPO refers to land that would have been needed for an earlier version of the published scheme, but is not now needed for the current scheme. It is stated that plot 4a is expected to be required for future planned works, not part of this published scheme, at Twyford Bridge Junction. The Secretaries of State further note that it is explained at IR 4.4.18 why this land has been included in the published scheme's draft CPO with the agreement of the landowner, Joseph Camm Farms Limited.

16. However, it is not accepted procedure or practice that land that is not needed for a specific scheme should be included in draft Orders published for that scheme. The tests that need to be applied by the Secretaries of State when making a draft CPO are - that it must be clear that there is a compelling case for acquisition in the public interest and that this justifies

interfering with the human rights of those with an interest in the land affected. Moreover, they also need to be satisfied that the acquiring authority has a clear idea of how it intends to use the land it seeks to acquire, and that all the land is required for the purposes of the scheme and that the acquisition is not premature. However, most importantly, they also need to be satisfied that funds for the scheme and for acquiring the land needed for that scheme have been made available and that the necessary resources are therefore likely to be available within a reasonable timescale, and there is unlikely to be any impediment to implementation. The Government's guidance on this is set out in more detail in ODPM Circular 06/2004.

17. In reaching a decision on this matter, the Secretaries of State note the following facts from the Inspector's findings and conclusions at IR 9.5.16: - that plot 4a would not be needed for the published scheme; that the Highways Agency expects that it will be needed for another future scheme centred on Twyford Bridge; but although that scheme's beneficial benefit to cost ratio means it has a high probability of proceeding, funding arrangements for the Twyford Bridge scheme are incomplete.

18. The Secretaries of State have therefore decided in the light of this evidence, that it would be inappropriate at this time to make the CPO that has been published for this current scheme, to include land required for another scheme, which will no doubt be the subject of its own separate quasi-judicial decision-making process at some future date. As the removal of plot 4a will not affect delivery of the published scheme, the Secretaries of State will ask the Highways Agency to remove plot 4a from the published draft CPO on making.

All other matters raised

19. The Secretaries of State agree with the Inspector's conclusions on all other matters raised and for the reasons he has given, fully accept his recommendations on those matters.

Modifications to Draft Orders

20. The Secretaries of State note from IR 8.9.1 and IR 9.5 that a number of modifications to the published draft Orders are proposed. These have been considered by the Inspector and he concluded at IR 9.5.6 to IR 9.5.22 that the draft Side Roads Order and the CPO should be modified accordingly on making. The Secretaries of State have accepted the Inspector's conclusions for the reasons given and consider these modifications are appropriate. They are also satisfied that the proposed modifications to the Side Roads Order do not make a substantial change to the published draft Order for the

purposes of paragraph 8(3) to Schedule 1 of the Highways Act 1980, and can be incorporated into the Orders on making. It also is noted at IR 9.5.18 that the proposed modifications to the Side Roads Order do not require any changes to the CPO that require any additional land-take from that published in the original draft CPO. The Secretaries of State are also satisfied the draft CPO may be modified on making to take account of the changes within published boundaries to the plots referred to in IR 9.5.18.

THE PUBLISHED SCHEME

21. In conclusion, the Secretaries of State have decided to proceed with the published scheme by making the draft Orders in paragraph 1 above, as recommended by the Inspector at IR 10.1 and IR 10.2.

RIGHT TO CHALLENGE MADE ORDERS

22. Public Notice will be given when these draft Orders are made. Any person who wishes to question their validity, or any particular provision contained in them, on the grounds that the Secretaries of State have exceeded their powers, or has not complied with the relevant statutory requirements may, under the provisions of Schedule 2 of the Highways Act 1980 and section 23 of the Acquisition of Land Act 1981, do so by application to the High Court. Such application must be made within six-weeks of publication of notice that the Orders have been made.

COMPENSATION

23. After the CPO has been made, qualifying persons, in relation to the land included in that made Order, will be approached about the amount of compensation payable to them in respect of their interest in the land. If the amount cannot be agreed with the valuer instructed by the Highways Agency, on behalf of the Secretary of State for Transport, the matter may be referred for determination to the Lands Tribunal under the Lands Tribunals Act 1949 and the Land Compensation Acts 1961 and 1973, as amended by the Planning and Compulsory Purchase Act 2004.

AVAILABILITY OF INSPECTOR'S REPORT

24. A copy of this letter and the Inspector's report has been sent to statutory objectors and to any other person who, having appeared at the inquiry, has asked to be notified of the decision of the Secretaries of State. Any person, who is entitled to be supplied with a copy of the Inspector's report, may apply to the Secretary of State for Transport within six-weeks of receipt of this letter, to inspect any document appended to the report. Any such application should be made to Tony Sherwood (telephone number

0207 944 6086) at the Department for Transport. Applicants should indicate the date and time (within normal office hours) when they propose to make the inspection. At least three days' notice should be given, if possible.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Peter Lee', with a stylized flourish at the end.

Peter Lee
On behalf of the Secretary of State for Transport

A handwritten signature in black ink, appearing to read 'M. Banks', with a long horizontal flourish underneath.

Michelle Banks
On behalf of the Secretary of State for Communities and Local Government