



GOVERNMENT OFFICE
FOR THE EAST MIDLANDS

Addressee as on envelope

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27 July 2010

Dear Sir or Madam

HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981
A46 NEWARK TO WIDMERPOOL IMPROVEMENT

1. I am directed by the Secretary of State for Transport and the Secretary of State for Communities and Local Government (“the Secretaries of State”) to refer to the concurrent public Inquiries (“the Inquiry”) held at the Cotgrave Welfare Centre, Cotgrave in Nottinghamshire, on eight sitting days between 12 January 2010 and 14 April 2010, before Mr W S C Wadrup, BEng (Hons), CEng, MICE, FCIHT, an independent Inspector appointed by the Secretaries of State, to hear objections to, and representations about, the following draft Orders:

The A46 Trunk Road (Newark to Widmerpool Improvement and Slip Roads) Supplementary (Side Roads) Order 20 (“SSRO”); and,

The A46 Trunk Road (Newark to Widmerpool Improvement and Slip Roads) Supplementary Compulsory Purchase Order 20 (“SCPO”).

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



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2. These draft Orders, if made, would provide for new side roads or private means of access at nine separate locations as described in paragraph 4.3 to paragraph 4.24 of the Inspector's report, and the acquisition of land and rights necessary to carry out these works ("the published scheme"). The background to these Orders is set down in paragraphs 1.5, 1.6 and 4.1 of the Inspector's report. The Secretaries' of State acceptance referred to in paragraph 1.5 was the subject of their earlier decision letter issued on 18 December 2008 that related to the main project.

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 at IR 9.44 concluded overall that the draft Orders, based on the detailed parts that remained before the Inquiry, are in the public interest and should be allowed to proceed. He went on to recommend at IR 10.1 that both draft Orders be modified as described at Annex D to his report and, as modified, be made.

THE DECISION OF THE SECRETARIES OF STATE

5. 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.

Decision on the Environmental Statement

6. The Secretary of State for Transport is satisfied that the requirements of European Directive No. 85/337/EEC, as amended by Directive No. 97/11/EC and Directive No. 2003/35/EC, implemented by sections 105A, 105B, 105C and 105D of the Highways Act 1980, have been complied with fully in respect of the works proposed in these supplementary Orders and the published scheme as a whole ("the project" for the purpose of the Directive). The Secretary of State is also satisfied that the Environmental Impact Assessment undertaken for the proposed works and the published Environment Statement (ES) Addendum No 2, have properly identified, assessed and addressed all



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significant environmental effects, and considered and given reasons for dismissing the main alternatives, as well as assessing the proposed measures to minimise these impacts. The Secretary of State is satisfied that members of the public and others concerned have been given reasonable opportunity to express their opinion before deciding whether to proceed with the project to which the assessment relates. Therefore, having considered the ES Addendum No 2 and any opinions expressed on them by the public and others, the Secretary of State has decided, to proceed with the project to which the assessment relates. For the purpose of section 105B(6) of the Highways Act 1980, publication of the Secretary of State's decision to proceed will be given by public notice as set out in section 105B(7).

Decision on the published Orders

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

8. The Secretaries of State are 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

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

Legality of draft SSRO

10. The Inspector at IR 3.7 and IR 9.6 reported the background to this matter that lead to the Highways Agency, after taking legal advice, to remove questionable elements of the draft SSRO that affected the Restricted Byways at the Herrywell Lane diversion, the Springdale Lane to Butt Lane diversion and at Occupation Lane, and to propose correcting modifications to those parts of the draft Order. The Inspector recorded at IR 9.6 that there were no objections to the proposals, and was satisfied that the SSRO that remained before the Inquiry appeared to have a sound basis under the provisions of the Highways Act 1980. The Secretaries of State agree with the Inspector's findings and are satisfied that this matter has been handled entirely properly and lawfully.



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Kinoulton Lane Link Road and Alternative proposed by Mr Taylor

11. This matter is reported in detail at IR 4.1 to IR 4.11, IR 5.1 to IR 5.7, IR 6.1 to IR 6.4, IR 6.28, IR 6.30, IR 6.31, IR 7.1 to IR 7.3, IR 7.11, IR 7.12, and IR 7.16, and the Inspector's conclusions are recorded at IR 9.8 to IR 9.12. The Secretaries of State have carefully consider this matter and agree with the Inspector's conclusions, for the reasons he has given, that the Orders in respect of Kinoulton Link Road should be made, subject to the detailed minor modifications referred to IR 9.12.

Private Means of Access for Newfield Farming Co and Mr Morley

12. The Secretaries of State have considered the concerns of Mr Morley and the Directors of Newfield Farming Company reported at IR 4.12 to IR 4.14, IR 6.10 to IR 6.19 and the Highways Agency's response at IR 7.5. The Secretaries of State note from the Inspector's findings at IR 9.13 and IR 9.14 that the proposed access arrangements for both Newfield Farm and Borders Wood in the draft SSRO have been withdrawn and discarded. Fresh proposals for access to the farmstead and wood, acceptable to the owners of the property and Nottinghamshire County Council, are now proposed as modifications to the SSRO. The Secretaries of State accept the Inspector's conclusions in IR 9.14 that these modifications would provide a satisfactory convenient alternative access, and that the SSRO should be made in this regard.

13. The Secretaries of State further note at IR 9.15 that Mr Morley raised the matter of reimbursement of his costs associated with preparing his case on the withdrawn access arrangement in the original draft SSRO. The Highways Agency, on behalf of the Secretary of State for Transport, will shortly be writing to Mr Morley inviting him to submit an application for his reasonable costs incurred in this matter for their consideration.

Private Means of Access to Flintham Estate

14. The Secretaries of State note the concerns of the Estate reported at IR 4.22 and IR 6.21 to IR 6.23, together with the Highways Agency's response recorded at IR 7.6. They accept the Inspector's conclusion at IR 9.16 to IR 9.18 that there is a clear understanding and agreement between



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the Estate and the Highways Agency and that this undertaking constitutes a satisfactory way forward and a means of protecting the special nature of the area. The Secretaries of State further accept the Inspector's conclusion in IR 9.18 that the concerns of the Estate should not prevent the making of this part of the SSRO in its modified form.

Flintham Bridleway Bridge

15. The Secretaries of State have considered the concerns of Flintham Estate relating to the status of the bridge proposed to cross the A46 at Flintham. This is reported in IR 6.24 to IR 6.26 and the Highways Agency's response is at IR 7.6 and IR 7.8. The Secretaries of State accept the Inspector's conclusions at IR 9.19 to IR 9.25 and agree, for the reasons he has given, that the Orders in respect of the Bridleway Bridge should be made.

Cyclists' Touring Club ("CTC")

16. The Secretaries of State have considered the concerns of the CTC reported in IR 6.5 to IR 6.7, and the Highways Agency's response at IR 7.9 to IR 7.14. The Secretaries of State accept the Inspector's conclusion in IR 9.26 to IR 9.28 and have noted that it was his opinion the proposals contained in the Orders constitute an acceptable and reasonably convenient way forward for dealing with the needs of local cyclists. The Secretaries of State accept the Inspector's conclusions, and agree for the reasons given by the Inspector, that there is no cycling reason to prevent the Orders from being made.

Car Colston Common Land Committee

17. The Secretaries of State have considered the Committee's concern reported at IR 6.8 about the Car Colston overbridge across the new A46 dual carriageway carrying a Restricted Byway onto Occupation Lane and its undesirable size, which they consider should be constructed "appreciably smaller", together with the Highways Agency's response at IR 7.15. The Secretaries of State accept the conclusions of the Inspector in IR 9.29, and for the reasons he has given, are satisfied that this is not a sufficient reason to prevent this part of SSRO from being made.



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Private Means of Access to Cropwell Court

18. The Secretaries of State note the representations made at IR 6.27, and the Highways Agency's response at IR 7.17, that this matter has been the subject of discussions with Mr Rowen and that they will continue dialogue and meetings with a view to agreeing matters of detail. The Secretaries of State accept the Inspector's conclusion at IR 9.30 and, for the reasons given, agree that SSRO should be modified to include the agreed access arrangement, and as modified, the SSRO should be made.

Reclassification of Highways as Restricted Byways

19. The Secretaries of State accept the Inspector findings in IR 9.31 that there were no objections to the reclassification of the highways as Restricted Byways, as proposed in IR 4.16 to IR 20, and agree with his conclusion that such a reclassification is considered legal if the SSRO is modified. They further accept the Inspector's conclusion in IR 9.31 that the SSRO, so modified, should be made.

Campaign to Protect Rural England ("CPRE"): Nottinghamshire

20. The Secretaries of State have considered CPRE's representation reported at IR 6.28 for an additional bridleway bridge, together with the Highways Agency's response at IR 7.18. The Secretaries of State accept the Inspector's findings and conclusions in IR 9.32 to IR 9.34, and agree, for the reasons given, that this should not prevent the draft Orders from being made.

Pedestrian Footbridge across A46

21. The Secretaries of State have considered the case reported at IR 6.29 and IR 6.30 to provide a footbridge across the A46 and the Highways Agency's response at IR 7.12 and IR 7.16, together with the Inspector's findings and conclusions at IR 9.35. The Secretaries of State accept the Inspector's conclusion, for the reasons given, that this could not be justified and the Kinoulton Link Road would offer a reasonably convenient route for pedestrian passage between Kinoulton and Station Road.



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Mr Leslie Hicks

22. The Secretaries of State have considered Mr Hicks' concerns about the design of the Widmerpool roundabout causing queuing complications in peak times, reported at IR 6.31, the Highways Agency's response at IR 7.19, and the Inspector's conclusions at IR 9.36. They have noted that the Inspector was satisfied that the design of the Widmerpool roundabout had properly taken account of the predicated traffic flows and have accepted his conclusion at IR 9.36, for the reasons given, that these concerns should not prevent the Kinoulton Lane Link Road being included in the made SSRO.

Mr Geoff Earl

23. The Secretaries of State note Mr Earl's concerns reported at IR 6.32 and the Inspector's findings at IR 9.37 that two of his three concerns have already been addressed by the Inspector. These relate to Kinoulton Lane Link Road and the alternative advocated for access to Borders Wood, which have both been accepted by the Secretaries of State. On his final point, concerning the planting of a shelterbelt of trees to protect Turnpike Farm from intrusion created by the extended Widmerpool roundabout, the Secretaries of State have noted that in the opinion of the Inspector this suggestion has merit, although not to the extent of preventing the SSRO from being made. The Secretaries of State accept the Inspector's recommendation in IR 9.37 and will ask the Highways Agency to further consider this planting proposal with a view to implement this within the published scheme, providing it is practicable to do so and within the confines of the draft Orders.

Mr J R and Mrs J B Salt

24. The Secretaries of State note the request of Mr and Mrs Salt reported in IR 6.33 for suitable kerbs, splays, gate and cattle grid should the Kinoulton Lane Link proceed, and the Highways Agency's response at IR 7.21 that they will endeavour to accommodate their wishes subject to detailed design considerations. The Secretaries of State further note the Inspector's acceptance at IR 9.38 that should the Kinoulton Link Road proceed, there would be a need to address the detail access arrangement to Field Farm. They also accept the Inspector's conclusion in IR 9.38 that this is a matter that should be resolved in discussion with Mr and Mrs Salt before



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construction commences. The Secretaries of State will therefore ask the Highways Agency to engage with Mr and Mrs Salt to conclude this matter before construction of the Link Road commences.

Grantham Canal Partnership

25. The Secretaries of State note the material points of the representation made by the Grantham Canal Partnership as recorded by the Inspector at IR 8.1 to IR 8.37 and the Inspector's comments at IR 3.1 to IR 3.6 and his conclusions at IR 9.4 and IR 9.5. However, the Secretaries of State accept the statement made at the Inquiry, and generally agreed by all parties concerned, that these draft supplementary Orders, neither physically nor directly, affect the Grantham Canal or its restoration. Furthermore, the purpose of this inquiry and the role of the Inspector are to inquire into objections and hear representations on the published draft supplementary Orders. Therefore, for these reasons, consideration of the Partnership's case cannot be considered part of the quasi-judicial decision making process of the Secretaries of State on these draft Orders. Nevertheless, as a separate matter outside this statutory process, the Secretary of State for Transport, who is responsible for promoting this scheme, has considered the Grantham Canal case set out in full in Inquiry Documents OBJ/010/2, OBJ/010/7 and OBJ/10/1 and has responded to the Partnership separately today.

Modifications

26. In taking forward the proposed modifications referred to in the paragraphs above to the draft SSRO, the Secretaries of State are satisfied that these do not make a substantial change to the original published draft SSRO for the purposes of paragraph 8(3) to Schedule 1 of the Highways Act 1980. Where these modifications affect the published SCPO, these can be made under the provisions in paragraph 5 of Schedule 1 to the Acquisition of Land Act 1981, on the understanding that they do not increase the land-take from that shown in the published draft SCPO, or where it does, the landowners concerned have given their written consent.

Conclusion

27. The Secretaries of State accept the Inspector's conclusions on all the matters set out in his report, and in addition to their comments made in paragraphs above, accept in full the Inspector's recommendations.



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THE PUBLISHED SCHEME

28. In conclusion, the Secretaries of State have decided to accept the Inspector's recommendations at IR 10.1 and to proceed with the proposed works by making the draft SSRO and SCPO, subject to the modifications described at Annex D of the Inspector's report.

ORDERS TO BE MADE

29. In the light of the above, the Secretary of State for Transport will make shortly the published draft Orders listed in paragraph 1 above, as recommended by the Inspector, subject to the proviso relating to the SCPO in paragraph 26 above.

30. When the public notice referred to in paragraph 6 above is given, any person who is aggrieved by the Secretary of State for Transport's decision to proceed with the scheme and wishes to question its validity, or of any particular provision contained in it, on the grounds that the Secretary of State has exceeded his powers or has not complied with the relevant statutory requirements may, under the provisions in section 105D of the Highways Act 1980, do so by application to the High Court. Such application must be made within six weeks of publication of the notice. The decision to which the notice applies shall not be questioned in any other legal proceedings whatever.

31. Public notice will be given when the Orders are made. Any person who wishes to question their validity, or any particular provision contained in them, on the grounds that the Secretary of State for Transport has exceeded his 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.



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COMPENSATION

32. After the SCPO has been made, the qualifying persons, in relation to the land included in the 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

32. 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 Ian Marshall (telephone number 0115 9712516) at this office. 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 'Will Wiseman', written over a light grey rectangular background.

Will Wiseman