



GOVERNMENT OFFICE
FOR THE EAST MIDLANDS

Addressee as on envelope

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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 Bearings, Bowbridge Road, Newark, Nottingham NG24 4BX, on eighteen sitting days between 3 July 2007 and 18 September 2007, before Mr Colin Tyrrell, MA (Oxon), CEng, MICE, FIHT, an independent Inspector appointed by the Secretaries of State, to hear objections to, and representations about, the following draft Orders and Certificate:

The A46 Trunk Road (Newark to Widmerpool Improvement and Slip Roads) Order 200 (Order 1);

The A52 Trunk Road (Newark to Widmerpool Improvement and Slip Roads) Order 200 (Order 2);

The A46 Trunk Road (Newark to Widmerpool Improvement and Slip Roads) (Detrunking) Order 200 (Order 3);

The A52 Trunk Road (Newark to Widmerpool Improvement and Slip Roads) (Detrunking) Order 200 (Order 4);



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The A46 Trunk Road ((Newark to Widmerpool Improvement and Slip Roads) Side Roads) Order 200 (Order 5);

The A46 Trunk Road (Newark to Widmerpool Improvement and Slip Roads) Compulsory Purchase Order 200 (Order 6); and

Intention to Issue a Certificate under Section 19 of the Acquisition of Land Act 1981 relating to Public Open Space at Flintham Sport Field.

This letter conveys the Secretaries' of State decision on the published Orders and Certificate above, following consideration of the Inspector's report.

2. These draft Orders, if made, and Certificate if issued, would provide for the upgrading of the A46 by providing a new 28km long dual two lane carriageway from the A606 two level junction at Widmerpool to the roundabout at Farndon, south of Newark (the overall scheme is described in more detail at paragraphs 5.53 to 5.59 and 5.77 to 5.165 of the Inspector's report), and 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 at IR 9.1 to IR 9.214 concluded overall in favour of the published scheme and agreed at IR 9.195 that the revisions and correction of minor errors referred to at IR 9.190 to the published draft Side Roads Order (Order 5) and the Compulsory Purchase Order (Order 6) should be made. However, at IR 9.195 he went on to record a number of design matters to the published scheme that should be reconsidered in making Orders 5 and 6. In reaching his conclusions, he recommends at IR 10.1 to IR 10.3, that Orders 1, 2, 3, and 4 should be made as published in draft, and that Orders 5 and 6 be amended to take into account the revisions and correction of the minor errors referred to at IR 9.190, and where appropriate, the design matters at IR 9.195, and then the revised Orders should 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



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objections, representations and expressions of support made, both orally and in writing, and all post-inquiry correspondence. 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, implemented by Part VA of the Highways Act 1980, have been complied with fully in respect of the published scheme ("the project" for the purposes of the Directive). The Secretary of State is also satisfied that the Environmental Impact Assessment undertaken for the proposed scheme and the published Environmental Statement and Addendum, have properly identified, assessed and addressed all 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, likely to be concerned, have been given reasonable opportunity to express their opinion on the published scheme and the Environmental Statement and Addendum, before deciding whether to proceed with the proposed scheme.

7. As required by section 105B of the Highways Act 1980, the Secretary of State for Transport has therefore decided, after taking into consideration the published Environmental Statement and Addendum, together with any representations and written opinions made on them, to proceed with the published scheme to which the Environmental Statement and Addendum relates.

Decision on the published Orders and Scheme

8. The Secretary of State for Transport is satisfied that the published scheme accords with the aims and objectives of the Government's White Papers "The Future of Transport – A Network for 2030", "A New Deal for Transport: Better for Everyone", and also the Government's sustainable development strategy, "Securing the Future".

9. 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.



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Matters arising

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

Policy considerations

11. In response to the matters raised by the Inspector at IR 9.7 to 9.16, concerning the application of the Strategic Environmental Assessment in accordance with the European Directive No 2001/42/EC ("SEA Directive"), that applies to the effect of certain plans and programmes on the environment, the Secretaries of State are satisfied that the objectives of the Directive have been met, where necessary.

12. The SEA Directive has been transposed into UK legislation through The Environmental Assessment of Plans and Programmes Regulations 2004 (SI 2004 No 1633) and provides high-level protection of the environment and contributes to the integration of environmental considerations into the preparation and adoption of certain plans. This is considered to apply to proposals set out in Regional Transport Strategies, which have been incorporated into the Regional Spatial Strategies. Those proposals that have been adopted through this process, such as this improvement scheme, should not need to be assessed further at this regional or strategic level. Moreover, at project-level, which is the stage now reached, this requirement is further complemented as the published scheme has also been subject to a rigorous environmental impact assessment and the publication of an environmental statement, under the European Directive No 85/337/EEC amended by Directive No 97/11/EC Directive, on which the public have been given an opportunity to express their opinion before deciding to proceed with the scheme. This is explained in more detail in paragraphs 6 and 7 above.

13. The Secretaries of State have also considered the other matter raised in this context recorded by the Inspector at IR 9.7 to IR 9.16, about whether the scheme complies with current Government strategy for sustainable development published in "Securing the Future – UK Government Sustainable Development Strategy", and concur with the Inspector at IR 9.15 that in this respect there is no conflict with the Government's overarching sustainability policies.



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Effect of scheme on Green Belt

14. The Secretaries of State note at IR 5.7 that the scheme would affect the Green Belt within the administrative boundary of Rushcliffe, and that this intrusion would be defined as inappropriate development within the terms of Planning Policy Guidance Note Number 2 – “Green Belts”. They take the view that such development could be justified only if there were very special circumstances whereby the harm was clearly outweighed by other considerations. In deciding this, it is necessary to balance the need and benefits that the scheme will bring, against the harm and impact it would have on the character of the Green Belt, having regard to the proposed mitigation measures. The Secretaries of State note that the Inspector considered the evidence on this matter and reached his conclusions at IR 9.7 that he accepted very special circumstances exist, which could justify its approval. The Secretaries of State accept the Inspector’s conclusion at IR 9.7 and agree that, on balance, very special circumstances exist in this case to justify this development in the Green Belt.

Kinoulton and Roehoe Side Road and Junction modification

15. The Secretaries of State note the Inspector’s comments at IR 9.54 to IR 9.63 about the concerns of local residents and others over the proposed deletion from earlier published proposals of the overbridge at Kinoulton Lane, and the need for alternative proposals to overcome their concerns. They accept the Inspector’s conclusions at IR 9.64 and IR 9.182, for the reasons he has given, that further consideration should be given to the side road and junction arrangements at Kinoulton Lane and Roehoe. They will ask the Highways Agency to look into the feasibility, and provide if practicable, a more convenient route, similar to that proposed in alternative KN 03, to provide better vehicular access for Kinoulton residents, whilst maintaining an adequate level of access for properties at and around Roehoe. In response to the Inspector’s comment at IR 9.182, the Agency are asked to ensure that the interests of cyclists should continue to be borne in mind when re-analysing the side road arrangement at Kinoulton Lane and Roehoe.

Roehoe Junction landscaping modification

16. The Secretaries of State note the Inspector’s comments at IR 9.65 to IR 9.67 in which he questions the need to acquire 1.97ha of land from Mr Mattock’s smallholding for landscaping and ecological mitigation. They accept the conclusions reached by the Inspector at IR 9.68 and for the reasons he has given, will ask the Highways Agency to reconsider this matter



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accordingly. This is not considered to amount to a substantial change affecting the published Orders and can be accommodated on their making.

The Grantham Canal modification

17. The Secretaries of State acknowledge the Inspector's comments at IR 9.82 to IR 9.85 about the inadequacies of the proposed pedestrian provision where the canal towpath crosses Stragglethorpe Road at grade. They accept the Inspector's conclusion at IR 9.86 and, for the reasons he has given, ask the Highways Agency to reconsider the arrangements for crossing Stragglethorpe Road on the line of the canal towpath, with a view to improving pedestrian safety.

Springdale Lane/Butt Lane Byway link modification

18. The Secretaries of State note the Inspector's comments at IR 9.91 and IR 9.92 regarding the relocation of the byway link and accept his conclusion at IR 9.93, for the reasons given. They will ask the Highways Agency to reconsider this matter and to look into the feasibility of adopting Alternative EB 02, if practicable, to reduce the impact on landowners' agricultural operations.

Slack's Lane Footbridge Crossing modification

19. The Secretaries of State have considered the Inspector's extensive comments at IR 9.109 to IR 9.124, regarding the proposed location of the Slack's Lane footbridge crossing, and his finding that if the crossing was relocated opposite Coneygrey Spinney, this would have substantial advantages over that proposed in the published scheme. The Secretaries of State accept the Inspector's conclusion at IR 9.125, for the reasons he has given, and agree there is a good case for considering relocating the footbridge. They will, accordingly, ask the Highways Agency to consider re-routing Footpath FL-6 further northwards and to look into the feasibility of adopting the layout in alternative FL08, or with the agreement of landowners in immediate vicinity, something similar, in order to improve pedestrian convenience and reduce village severance.

Flood Compensation Area at Hawton Lane modification

20. The Secretaries of State note the Inspector's comments at IR 9.149 to IR 9.152 about the proposed location of the flood compensation area at Hawton Lane and the concerns of the landowner affected. They accept the



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Inspector's conclusion at IR 9.153, for the reasons he gives, and will ask the Highways Agency to show that all other possibilities have been investigated with a view to look into the feasibility of relocating this area, to the satisfaction of the landowner and agreement of the Environment Agency. This, if implemented, is not considered to amount to a substantial change affecting the published Orders and could be included on making. However, if for any reason the Environment Agency's consent cannot be secured within a reasonable period of time, the location of this area will remain as originally proposed to avoid any unnecessary delay to the scheme.

Crees Lane Access modification

21. The Secretaries of State have taken into account the Inspector's comments at IR 9.157 to IR 9.163 regarding the proposed access arrangements to Crees Lane, and accept in principle his conclusion at IR 9.164 that these arrangements should be reconsidered with a view to adopting Alternative CL 03 to minimise landtake and retain the character of the narrow lane. However, they note that Crees Lane is privately owned and there are thirteen owner-occupiers of eight properties in the Lane. They will ask the Highway Agency to consider providing a narrower access to Crees Lane, if this is acceptable to all the parties affected (IR 6.355). But, if an agreement cannot be agreed with all concerned within a reasonable time, the proposals published in the draft Orders will be adopted to avoid delaying the scheme unnecessarily. This is not considered to amount to substantial change affecting the published Orders.

Provisions for Non-Motorised Users (NMUs)

22. The Secretaries of State acknowledge the Inspector's comments at IR 9.171 to IR 9.188, regarding the provisions made in the published scheme for pedestrians, cyclists and equestrians. In particular, they note his conclusion at IR 9.176 and IR 9.188 that overall, sufficient provisions are proposed to cater for NMUs needs but for the reasons he gave, agree that there is merit in providing an all-weather cycle/footway along the superseded A46 between Butt Lane and Margidunum for pedestrians walking from East Bridgford to Bingham. The Secretaries of State accept this conclusion and will ask the Highways Agency to reconsider this matter with a view of including this into the published scheme, if practicable and feasible to do so. This is not considered to amount to a substantial change and can be accommodated within the published Orders on making. The other matters referred to by the Inspector at IR 9.188, regarding an improved crossing of



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Stragglethorpe Road and the relocation of Slack's Lane Footbridge, are dealt with in paragraphs 17 and 19 above.

Amendments to Orders 5 and 6

23. The Secretaries of State accept the Inspector's conclusion at IR 9.191, that the changes, submitted by the Highways Agency in inquiry documents 1/0/93, 1/0/97 and 1/0/101 and referred to at IR 5.356 and IR 5.357 to Order 5 (Side Roads Order) and Order 6 (Compulsory Purchase Order), should be included when the Orders are made.

24. In taking forward the changes in paragraph 23 above and the modifications in paragraphs 16, 20, 21 and 22 above, the Secretaries of State are satisfied that they do not make a substantial change to the published Side Roads Order (Order 5) for the purposes of paragraph 8(3) to Schedule 1 of the Highways Act 1980. Where these modifications affect the published Compulsory Purchase Order (Order 6), these can be made under the provisions in paragraph 5 of Schedule 1 to the Acquisition of Land Act 1981, providing the landowners concerned have given their consent. The Inspector recorded at IR 9.191 that the Highways Agency had confirmed at IR 5.357 that they had obtained the written agreement of the relevant landowners for the changes referred in paragraph 23 above.

Supplementary Orders

25. Depending on the outcome of the Highways Agency's further design work to incorporate the modifications recommended by the Inspector into the published scheme - referred to in paragraphs 15, 17, 18 and 19 above, and the scale and degree of the change required to the published Orders in doing so, these may require a supplementary Side Roads Order. A supplementary Compulsory Purchase Order will also be required where additional land-take is needed and the consent of the landowners concerned cannot be secured by agreement. These modifications will be subject to further consultation and the supplementary Orders would need to follow the independent statutory planning process with possibly a further public inquiry - which the Secretaries of State cannot presume what the outcome will be, before being brought into effect. The scale and degree of the work involved in implementing these modifications is not considered to affect the making of the published Orders, nor prevent the published scheme from starting. However, the Highways Agency are asked to ensure that the construction process for the proposed scheme is sufficiently flexible for the start of works at the locations affected by



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any supplementary Order, to take on-board the outcome of the independent planning process, as necessary.

Alternative Proposals

26. The Secretaries of State accept the Inspector's conclusions at IR 9.189 on the 74 alternatives proposals submitted by objectors prior to the inquiry and have responded accordingly to those recorded in IR 9.195, which were considered to have sufficient merit for further consideration, in the paragraphs above.

Exchange Land Certificates for Public Open Space and Common Land

27. The Secretaries of State note that it is proposed to acquire 381m² of land designated as public open space at Flintham Sport Field, and 165m² of land designated as common land at New Lane, in the draft Compulsory Purchase Order (Order 6).

28. In respect of this public open space, the Secretary of State for Communities and Local Government is responsible for issuing a certificate under Section 19(1)(a) of the Acquisition of Land Act 1981 for the compulsory purchase of this land and the giving in exchange for such land, other land not being less in area and being equally advantageous. It is noted that a public notice of intention to this effect was published (attached to inquiry document DD322). The public open space is shown as plot 18/2N and the corresponding exchange land of 395m² is shown as plot 18 in the draft Compulsory Purchase Order (Order 6).

29. In respect of this common land, the Secretary of State for Environment, Food and Rural Affairs is responsible for issuing a certificate under Section 19(1)(b) of the Acquisition of Land Act 1981 for the compulsory purchase of this land and to certify that the giving of exchange land in these circumstances, being less than 209m² (250 yds²), is unnecessary. It is noted that a public notice of intention to this effect was published (attached to inquiry document DD322). This common land is shown in plots 15/5C and 15/5D of the published draft Compulsory Purchase Order (Order 6).

30. On both these matters, the Inspector concluded at IR 9.211 that there was little interest at the Inquiry into the two section 19 certificates and no written representations or objections were received concerning either matter. Although for the reasons explained in IR 4.2 and IR 9.213 the section 19 certificate for common land was not formally before the Inquiry, the Inspector advised both Secretaries of State at IR 9.212 and IR 9.214 that the



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certificates should be issued. Nevertheless, these are matters that need to be pursued separately from this decision and that the relevant certificate from each Secretary of State will be required before the draft Compulsory Purchase Order (Order 6) can be made in full to include these plots. This is not seen as an impediment to authorising the making of the draft Compulsory Purchase Order (Order 6).

Conclusion

31. 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 11 to 30 above, accept in full the Inspector's recommendations.

THE PUBLISHED SCHEME

32. In conclusion, the Secretaries of State have decided to proceed with the published scheme by making the draft Orders, as recommended by the Inspector at IR 10.1 and IR 10.2, with the modifications set out in this letter subject to the proviso in paragraph 25 above.

ORDERS TO BE MADE

33. 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 Compulsory Purchase Order (Order 6) in paragraph 30 above. This will include the modifications contained in inquiry document 1/0/93 and 1/0/97 referred to in IR 5.356 and those matters recommended by the Inspector referred to at IR 9.195 and in the paragraphs above. Any supplementary Order required from the modifications in paragraph 25, above will be published in draft by the Highways Agency in due course.

34. Public Notice will be given when the Orders are made and the Certificate issued. 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

35. After the Compulsory Purchase Order (Order 6) 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

36. 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

Will Wiseman