



Department
for Transport

Ms Katy Jobanputra
Team Leader Environment & Property
Legal Services
Chief Executives Department
Leicestershire County Council
County Hall
Glenfield
Leicestershire, LE3 8RA

National Transport Casework Team

Tyneside House
Skinnerburn Road
Newcastle Business Park
Newcastle upon Tyne
NE4 7AR

www.gov.uk

Email: dave.candlish@dft.gov.uk

Katy.Jobanputra@leics.gov.uk

Your Ref: KJ/CAPHTWM/264/KM
Our Ref: NATTRAN/EM/HAO/234
Date: 30 March 2022

Dear Ms Jobanputra

**THE LEICESTERSHIRE COUNTY COUNCIL (A606 NORTH & EAST MELTON
MOWBRAY DISTRIBUTOR ROAD, CLASSIFIED ROAD) (SIDE ROADS) ORDER 2020
("the SRO")**

**THE LEICESTERSHIRE COUNTY COUNCIL (A606 NORTH AND EAST MELTON
MOWBRAY DISTRIBUTOR ROAD) COMPULSORY PURCHASE ORDER 2020 ("the
CPO")**

**SECRETARY OF STATE'S DECISION – SRO AND CPO TO BE CONFIRMED WITH
MODIFICATIONS**

1. I refer to Leicestershire County Council's ("the Council") application for confirmation of the above-named Orders. The Secretary of State for Transport ("the Secretary of State") has decided to confirm the SRO and CPO with modifications, and this letter constitutes his decision to that effect.

2. The SRO and CPO will, respectively, authorise the Council to:

(i) improve highways, stop up highways, construct new highways, stop up private means of access to premises and provide new means of access to premises all on or in the vicinity of the highway the Council propose to construct from the A606 Nottingham Road, for a distance of 7.1km to the north and east of Melton Mowbray, to its junction with the A606 at Burton Road; and

(ii) purchase compulsorily the land and new rights over land for the purposes of: the construction of the new highway described at (i) above; the construction of new bridges and culverts along the aforesaid new highway; the construction of a 3 metres wide off-

carriageway shared footway/cycleway adjacent to the north bound lane over the full extents of the aforesaid new highway; the construction of new ancillary highways to connect the above mentioned new highway with the existing road system; the improvement of the A606 Nottingham Road, Scalford Road, Melton Spinney Road, A607 Waltham Road, A676 Saxby Road and Burton Road; the change of the permitted use of part of Leg Lane and Sawgate Road from its use as an Unclassified County Road to its use as a bridleway and private means of access; the change of the permitted use of part of Right of Way E25 from its use as an Unclassified County Road to its use as a bridleway; the construction of other highways, the improvement of existing highways and the provision of new private means of access to premises in pursuance of the above SRO; the use by the acquiring authority in connection with the construction and improvement of highways and the provision of new means of access as aforesaid; the diversion of the River Eye SSI and other existing drainage and watercourses in connection with the construction of highways, including the construction of attenuation ponds and flood compensation areas and the provision of new means of access to the attenuation ponds; the use by the acquiring authority in connection with the diversion of a watercourse and creation of flood compensation areas as aforesaid; and mitigating the adverse effect which the existence or use of the highways proposed to be constructed or improved will have on the surroundings thereof, through the creation of ecological enhancement area and new landscaping.

MODIFICATIONS

SRO

3. The Secretary of State will make the modifications to the SRO as proposed by the Council and as recommended by the Inspector at paragraph 11.1 of her report, these are included in Inspector's Document Appendix E, which is annexed to this letter.
4. The Secretary of State agrees with the Inspector that the proposed modifications all relate to relatively minor matters which would not affect the extent or scale of the proposals and, noting that the Council has previously consulted on these proposed modifications (paragraph 3.3), he agrees with the Inspector that no further formal consultation on these modifications is necessary (paragraph 3.18).
5. The Secretary of State agrees with Inspector that the modifications to the SRO are necessary to address specific objections and for clarity and accuracy, and that they can be made in accordance with paragraph 8 of Schedule 1 to the Highways Act 1980 (paragraph 3.19).

CPO

6. The Secretary of State will make the modifications to the CPO as proposed by the Council and recommended by the Inspector at paragraph 11.2 of her report, these are to delete Plots 92 and 100 and with regard to Plot 96 to insert the words 'A right of access with or without vehicles plant or machinery to the exclusion of others over...' in column 2 of Table 1.

7. The Secretary of State agrees with the Inspector that these amendments all represent a reduction in the land interests to be acquired and would not be prejudicial to any party.

CONSIDERATIONS FOR DECISION

8. As statutory and non-statutory objections remained outstanding to the Orders it was decided that concurrent Public Local Inquiries should be held for the purposes of hearing those objections. The Inspector, Lesley Coffey BA Hons BTP MRTPI, held a virtual Pre-Inquiries meeting (via the Teams platform) on 6 July 2021, and virtual Inquiries on 21-30 September 2021. The Inquiries were formally closed on the 8 October 2021. At the opening of the Inquiries, the Inspector reports that there were 18 objections remaining to the Orders and by the close of the Inquiries 13 objections remained.

9. The Inspector considered all representations about the Orders during the Inquiries and has since submitted a report to the Secretary of State, a copy of which is enclosed with this letter. The Secretary of State has given careful consideration to the Inspector's report and also to a number of relevant issues, as set out in *Guidance on Compulsory purchase process and The Criche Down Rules* and *The Highways Act 1980*, in reaching his decision on the Orders.

In relation to the SRO, namely that:

- i. where a highway is to be stopped up another reasonably convenient route is available or will be provided before the highway is stopped up;
- ii. where a private means of access to premises is to be stopped up either no access to the premises is reasonably required or another reasonably convenient means of access to the premises is available or will be provided; and
- iii. provision will be made for the preservation of any rights of statutory undertakers in respect of their apparatus.

In relation to the CPO, namely that:

- i. there should be a compelling case in the public interest to acquire all the land and that this should sufficiently justify interfering with the human rights of those with an interest in the land affected;
- ii. the acquiring authority should have a clear idea of how it intends to use the land that it wishes to acquire;
- iii. sufficient resources should be available to complete the compulsory acquisition within the statutory period following confirmation of the Order, and to implement the scheme; and

- iv. there should be a reasonable prospect of the scheme going ahead and it should be unlikely to be blocked by any impediment to implementation.

CONCLUSION

10. The Secretary of State has considered carefully all the representations about the Orders.
11. The Secretary of State notes that provision is being made for statutory undertakers' apparatus within the proposal, and that liaison between the Council and the companies is on-going (paragraph 10.110). He agrees with the Inspector that, subject to the submitted modifications, where a highway or PMA is to be stopped up, the SRO would provide a reasonably convenient alternative route or access for road users, as described in the schedules and plans of the SRO (paragraph 10.111).
12. The Secretary of State has carefully considered whether the purposes for which the CPO is required sufficiently justify interfering with the human rights of those with an interest in the CPO and is satisfied that they do. In particular, consideration has been given to the provisions of Article 1 of The First Protocol to the European Convention on Human Rights and the Human Rights Act 1998. In this respect, the Secretary of State agrees with the Inspector's conclusions at paragraph 10.121 that the purposes for which the CPO is promoted justifies interfering with the human rights of those with an interest in the land affected.
13. The Secretary of State agrees with the Inspectors conclusions at paragraph 10.121 and is satisfied that the Council has a clear idea of how the land to be acquired would be used; that there is a reasonable expectation that the necessary resources will be available to carry out the proposals within a reasonable timescale; that the scheme is unlikely to be blocked by any physical or legal impediments; and that there is a compelling case in the public interest for the scheme to proceed and that this outweighs the private loss involved in the compulsory acquisition.
14. Having considered all aspects of the matter the Secretary of State is satisfied that there are no compelling reasons brought forward which would justify not confirming the SRO and CPO. Accordingly, the Secretary of State agrees with the Inspector's recommendations and has decided to confirm 'The Leicestershire County Council (A606 North and East Melton Mowbray Distributor Road, Classified Road) Side Roads Order 2020 and 'The Leicestershire County Council (A606 North and East Melton Mowbray Distributor Road) Compulsory Purchase Order 2020' as modified by him.
15. In confirming the SRO and CPO the Secretary of State has relied on the information that the Council and others have provided, as contained in the Orders and any related plans, diagrams, statements or correspondence, as being factually correct. Confirmation is given on this basis.

COMPENSATION

16. Details of compensation arising as a consequence of confirmation of a CPO are a matter for negotiation with the acquiring authority and not the Secretary of State. Accordingly, qualifying persons in relation to the land included in the CPO will need to be approached by the Council about the amount of compensation payable to them in respect of their interests in the land. If the amount cannot be agreed the matter may be referred for determination by the Upper Tribunal (Lands Chamber) under the Lands Tribunal Act 1949 and the Land Compensation Act 1961 and 1973, as amended by the Planning and Compulsory Purchase Act 2004.

AVAILABILITY OF DOCUMENTS

17. A copy of this letter and accompanying annex, together with a copy of the Inspector's report, have been sent to those parties who appeared at the Inquiries, other interested parties and relevant Members of Parliament. Copies will be made available on request to any other persons directly concerned.

18. Please arrange for a copy of the Inspector's report and of this letter to be made available for inspection at <https://www.leicestershire.gov.uk/roads-and-travel/road-maintenance/north-and-east-melton-mowbray-distributor-road-scheme/statement-of-case-documentation-list>.

Any person entitled to a copy of the Inspector's report may apply to the Secretary of State for Transport, at this address within 6 weeks of the receipt of this letter, to inspect any document, photograph or plan submitted by the Inspector with the Inspector's report.

RIGHT OF CHALLENGE

19. Notice is to be published of confirmation of the Orders. Any person who wishes to question the validity of the confirmed Orders, or any particular provision contained therein, on the grounds that the Secretary of State has exceeded his powers or has not complied with the relevant statutory requirements in confirming them may, under the provisions of Schedule 2 to the Highways Act 1980 and section 23 of the Acquisition of Land Act 1981, do so by application to the High Court. Such an application must be made within six weeks of publication of the notice that the Orders have been confirmed. The High Court cannot entertain an application under Schedule 2 or section 23 before publication of the notice that the Secretary of State has confirmed the Orders.

Yours sincerely



DAVE CANDLISH

Authorised by the Secretary of State for Transport
to sign in that behalf