

Department for **Transport**

Mr J Secker
Head of Legal Services
Luton Borough Council
Legal Services, Town Hall
Luton
LU1 2BQ

National Transport Casework Team
2nd Floor, Lancaster House
Hampshire Court
Newcastle Business Park
Newcastle upon Tyne
NE4 7YH

Direct line: 0191 226 5152

www.dft.gov.uk

Email: karen.davies@dft.gsi.gov.uk

Your Ref:

Our Ref: DN5042/60/1/16

Date: 10 April 2012

Dear Sir

HIGHWAYS ACT 1980 ACQUISITION OF LAND ACT 1981

The Luton Borough Council (Luton Town Centre Transportation Scheme) Compulsory Purchase Order 2009 ("the CPO")

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to refer to the Public Local Inquiry held at The Strathmore Hotel, Arndale, Luton, Bedfordshire on 25, 26 January & 1 February 2012 before Mr J I McPherson JP BSc CEng Cenv CWEM MICE MCIWEM MCMI an Inspector appointed by the Secretary of State to hear objections to and representations about the above named Order submitted by Luton Borough Council ("the Council"). This letter conveys the Secretary of State's decision on the published made Order after considering the Inspector's report.

2. The order, if confirmed by the Secretary of State, would authorise the Council to purchase compulsorily the land and the new rights over land described therein for the purposes of:-

(a) the improvement of existing highways, being the principal roads known as Crawley Green Road, Crescent Road, Church Street, Hitchin Road and Midland Road;

(b) the construction of a new principal highway from Old Bedford Road to Hitchin Road to be known as the Gateway Link;

(c) the construction of a link road from Midland Road to Gillam Street;

(d) the construction of a new means of access from Crescent Road to the former Network Rail goods yard; and

- (e) the use by the acquiring authority in connection with the construction and improvement of highways, as aforesaid.

THE INSPECTOR'S REPORT

3. The Inspector has considered all the objections to and representations about the above Order both as made in writing and presented orally at the Inquiry and has submitted his report to the Secretary of State. A copy of that report is enclosed with this letter. References in this letter to the Inspector's report are indicated by the abbreviation "IR" followed by the paragraph number in the report.

4. The Inspector's report summarises the case for the Council at IR 33 to IR 69; the case for the objectors and the Council's rebuttal is summarised at IR 70 to IR 136. The Inspector's summary and overall conclusions are detailed at IR 175 to IR 180 whilst his recommendation is given at IR 181.

THE DECISION OF THE SECRETARY OF STATE

5. The Secretary of State has considered carefully all the objections to and representations about, the Order. She has considered the Inspector's report and accepts his conclusions and recommendation.

6. The Secretary of State has carefully considered whether the purposes for which the CPO is required sufficiently justify interfering with the human rights of the objectors, owners and lessees and she is satisfied that they do. In particular, she has considered the provisions of Article 1 of The First Protocol to the European Convention on Human Rights. In this respect, the Secretary of State agrees with the Inspector's conclusions at IR 175 to IR 180 and is satisfied that in confirming the CPO a fair balance has been struck between the public interest and interests of the objectors, owners and lessees.

7. The Secretary of State does not consider that the objections, singly or together, constitute grounds for not proceeding with the proposals. For these reasons, she has decided to confirm:

The Luton Borough Council (Luton Town Centre Transportation Scheme) Compulsory Order 2009;

and this letter constitutes her decision to that effect.

8. In confirming the Order, the Secretary of State has relied on the information that the Council and others have provided, as contained in the Order and any related plans, diagrams, statements or correspondence as being factually correct. This decision on confirming this Order is given on this basis.

COMPENSATION

9. Details of compensation arising as a consequence of confirmation of a CPO are for negotiation with the acquiring authority and not the Secretary of State. Accordingly, owners and occupiers of 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 required for the proposals. If the amount cannot be agreed the matter may be referred for determination by the Lands Tribunal under the Lands Tribunal Act 1949 and the Land Compensation Act 1961.

AVAILABILITY OF DOCUMENTS

10. A copy of this letter, together with a copy of the Inspector's report has been sent to objectors and to supporters of the scheme and to other persons who appeared and made representations at the Inquiry. Copies will be made available on request to any other persons directly concerned and can also be viewed on:

<http://www.dft.gov.uk/topics/legislation/national-transport-casework/local-authority-orders/>.

Please arrange for a copy of the Inspector's report and of this letter to be made available for inspection at the offices of the Council and at all other places used to deposit the Order for public inspection 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. Those documents, photographs or plans, are retained at this office, and will be made available at a local place of inspection.

RIGHT OF CHALLENGE

11. Notice is to be published of confirmation of the Order. Any person who wishes to question the validity of the confirmed Order, or any particular provision contained therein, on the grounds that the Secretary of State has exceeded her powers or has not complied with the relevant statutory requirements in confirming the Order 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 application must be made within six weeks of publication of the notice that the Order has been confirmed. The High Court cannot entertain an application under the said Schedule 2 or section 23 before publication of the notice that the Secretary of State has confirmed the Order.

Yours faithfully

Karen Davies
Authorised by the Secretary of State
to sign in that behalf