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for Transport

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Your Ref:

Our Ref: LAO/NW/SRO/2012/3

LAO/NW/CPO/2012/4

Date: 26 February 2013

Dear Madam

HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981

BOROUGH OF BLACKBURN WITH DARWEN A6078 FRECKLETON STREET LINK ROAD ("the published scheme")

THE BOROUGH OF BLACKBURN WITH DARWEN (A6078 FRECKLETON STREET LINK ROAD) SIDE ROADS ORDER 2012 ("the SRO")

THE BOROUGH OF BLACKBURN WITH DARWEN (A6078 FRECKLETON STREET LINK ROAD) COMPULSORY PURCHASE ORDER 2012 ("the CPO")

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to refer to the concurrent public local Inquiries held at Blackburn Town Hall on 25 and 26 September 2012 before Mr I Jenkins BSc CEng MICE MCIWEM, an Inspector appointed by the Secretary of State to hear objections to and representations about the above named Orders submitted by Blackburn with Darwen Borough Council ("the Council").

2. If confirmed by the Secretary of State the SRO and CPO would respectively authorise the Council to:

- a) improve lengths of highway, stop up lengths of highway, construct new highways and stop up private means of access to premises; and
- b) purchase compulsorily land and new rights over land for the purposes of: the construction of a highway which is to be a highway maintainable at the public expense and which will provide a link between the Wainwright Bridge (A6078) and King Street/ Montague Street, Blackburn; the improvement of existing highways in the vicinity of the routes of the above mentioned highway in pursuance of the SRO; use by the acquiring authority in connection with the improvement of highways; and

mitigating the adverse effect which the existence and use of the highways proposed to be constructed or improved will have on the surroundings thereof.

THE INSPECTOR'S REPORT

3. The Inspector has considered all the objections to and representations about the Orders both as made in writing and presented orally at the Inquiries 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 4.1 to IR 4.2.10. The case for the objectors is summarised at IR 5.1 to IR 5.2.6 and the Council's rebuttal of the objections is at IR 6.1.1 to IR 6.2.7. The Inspector's conclusions are detailed at IR 7.1 to IR 7.2.6 whilst his recommendations are given at IR 8.1 and IR 8.2.

THE INSPECTOR'S CONCLUSIONS AND RECOMMENDATIONS

5. In light of his conclusions the Inspector has recommended at IR 8.1 and IR 8.2 respectively that the CPO be confirmed as modified in accordance with CPOa and that the SRO be confirmed as modified in accordance with SROa, all as detailed at IR 3.2 to IR 3.5. The Inspector has concluded at IR 3.5 that, in his judgement, the proposed modifications would not make a substantial change to either of the Orders. A full list of the modifications proposed is at Annex A of this letter.

POST INQUIRIES CORRESPONDENCE

6. Following the close of the Inquiries an email dated 29 October 2012 was received from the Council advising that it had served two notices being a notice under section 122 Local Government Act 1972 to appropriate part of the graveyard for highway purposes, and a notice that the Council intends to apply to the Ministry of Justice for an exhumation licence. The Council confirmed that the time for consultation in both notices had expired and that no objections had been received in relation to both notices. The Council also advised that it had submitted its application for a licence to exhume human remains to the Ministry of Justice on the 24 October 2012.

THE DECISION OF THE SECRETARY OF STATE

7. The Secretary of State has considered carefully all the objections to, and representations about, the Orders, including alternative proposals put forward. He has considered the Inspector's report and accepts his conclusions and recommendations. The Secretary of State is satisfied that there is nothing in the correspondence received after the close of the Inquiries which cause him to disagree with the Inspector's conclusions and recommendations.

8. 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 he is satisfied that they do. In particular, he 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 7.1.19 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.

9. The Secretary of State does not consider that the objections, singly or together, constitute grounds for not proceeding with the proposals, and accepts that the modifications mentioned in paragraph 5 are necessary and that they should be made. He is satisfied in relation to the SRO that the modifications do not amount to substantial change and in relation to the CPO that they would not prejudice the interests of any of the parties directly concerned. For these reasons he has decided to confirm, as modified by him, the Borough of Blackburn with Darwen (A6078 Freckleton Street Link Road) Side Roads Order 2012 and the Borough of Blackburn with Darwen (A6078 Freckleton Street Link Road) Compulsory Purchase Order 2012 and this letter constitutes his decision to that effect.

10. In confirming the Orders, 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. This decision on confirming these Orders is given on this basis.

COMPENSATION

11. Details of compensation arising as a consequence of confirmation of a compulsory purchase order 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

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

<https://www.gov.uk/government/organisations/department-for-transport/series/highways-act-inspectors-reports-and-decision-letters>.

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 Orders for public inspection at making stage. 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

13. 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 the Orders 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 Orders have 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 Orders.

Yours faithfully

VICTORIA POINTER
Authorised by the Secretary of State
to sign in that behalf