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for Transport

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Our Ref: LAO/EM/SRO/2013/32
LAO/EM/CPO/2013/33
LAO/EM/SuppCPO/2014/46
Date: 11 June 2014

Dear Madam

HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981

THE LINCOLNSHIRE COUNTY COUNCIL (A57 LINCOLN EAST WEST LINK ROAD)(CLASSIFIED ROAD)(SIDE ROADS) ORDER 2013 ("the SRO")
THE LINCOLNSHIRE COUNTY COUNCIL (LINCOLN EAST WEST LINK ROAD PHASE 1) COMPULSORY PURCHASE ORDER 2013 ("the CPO")
THE LINCOLNSHIRE COUNTY COUNCIL (LINCOLN EAST WEST LINK ROAD PHASE 1) SUPPLEMENTARY COMPULSORY PURCHASE ORDER 2014 ("the supplementary CPO")

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to refer to the concurrent Public Local Inquiries ("the Inquiry") held at the Bentley Hotel, Newark Road, South Hykeham, Lincoln LN6 9NH on 11 March 2014 before Mr Martin Whitehead LLB BSc(Hons) CEng MICE, an Inspector appointed by the Secretary of State to hear objections to and representations about the above named Orders submitted for confirmation by Lincolnshire County Council ("the Council").

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

(i) improve lengths of highway, stop up lengths of highway, construct new highways, stop up private means of access to premises and provide new means of access to premises; and

(ii) purchase compulsorily land and new rights over land for the purposes of the construction of the highway which is to be a highway maintainable at public expense and which will provide a link road between High Street and Canwick Road. Also the construction of connecting highways, the improvement of existing highways and the provision of new means of access to premises in pursuance of the SRO. In addition, for use by the acquiring authority in connection with the construction and improvement of highways, the provision of new means of access to premises and the carrying out of works authorised under the SRO and the mitigation of adverse effects arising.

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 Inquiry and has submitted his report to the Secretary of State. A copy of that report is enclosed with this letter at Annex 1. References in this letter to the Inspector's report are indicated by the abbreviation "IR" followed by the paragraph number in the report.

4. At IR 1.4 the Inspector explains that there was one statutory objection to the SRO and no objections to the CPO or to the supplementary CPO outstanding at the opening of the Inquiry. No objector appeared at the Inquiry. By the close of the Inquiry no notification had been received from the outstanding objector that it had withdrawn its objection. The Inspector's report summarises the case for the Council at IR 3.1 to IR 3.19. The case for the objector is summarised at IR 4.1 to IR 4.2 and the Council's rebuttal of the objection is included within their case at IR 3.17 to IR 3.18. The Inspector's conclusions are detailed at IR 5.1 to IR 5.13 and his recommendations are given at IR 6.1.

THE INSPECTOR'S CONCLUSIONS AND RECOMMENDATIONS

5. In light of his conclusions the Inspector recommended at IR 6.1 that the SRO, the CPO and the supplementary CPO all be modified in accordance with Inquiry Document LCC/PI/06 and thereafter be confirmed. The modifications, as listed at Annex 2 to this letter and as summarised in the case for the Council at IR 3.12, are proposed in order to address comments from the Department for Transport and the Inspector has concluded at IR 5.11 that all the proposed modifications to the SRO, CPO and supplementary CPO are necessary and that the Orders should be modified in accordance with the modified documents.

THE DECISION OF THE SECRETARY OF STATE

6. The Secretary of State has considered carefully all the objections to, and representations about, the Orders. He has considered the Inspector's report and accepts his conclusions and recommendations.

7. Further to the modifications contained within Inquiry Document LCC/PI/06, the Secretary of State proposes, for completeness, to incorporate a further minor modification to the CPO to delete Plot 35 from Table 2 to reflect its deletion from Table 1 and to modify the supplementary CPO to accurately reflect the title of the SRO given in Article 1 (ii), (iii) and (v).

8. The Secretary of State notes that the Secretary of State for Communities and Local Government has, today, issued a Certificate under Section 19(1)(b) of the Acquisition of Land Act 1981 in respect of Open Space Land which is to be acquired under the supplementary CPO. The Secretary of State is satisfied, in the light of this decision, that there are no special parliamentary procedure considerations which will apply to the supplementary CPO in relation to its special category land. Furthermore, he is satisfied that there are no special parliamentary procedure considerations in respect of the Open Space Land included as plot 35 in the CPO as, being the same land which is to be acquired under the supplementary CPO, it is to be deleted by way of modification should the Order be confirmed.

9. The Secretary of State has carefully considered whether the purposes for which the CPOs are 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 5.6 and IR 5.13 and is satisfied that in confirming the CPOs a fair balance has been struck between the public interest and interests of the objectors, owners and lessees.

10. 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 referred to in paragraphs 5 and 7 above are necessary and that they should be made. For these reasons he has decided to confirm, as modified by him, The Lincolnshire County Council (A57 Lincoln East West Link Road)(Classified Road)(Side Roads) Order 2013, The Lincolnshire County Council (Lincoln East West Link Road Phase 1) Compulsory Purchase Order 2013 and The Lincolnshire County Council (Lincoln East West Link Road Phase 1) Supplementary Compulsory Purchase Order 2014 and this letter constitutes his decision to that effect.

11. 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. Confirmation is given on this basis.

COMPENSATION

12. 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 CPOs 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 Lands Tribunal 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

13. A copy of this letter together with a copy of the Inspector's report and Modifications to the Orders (Annex 2) has been sent to objectors and their representatives. Copies will be made available on request to any other persons directly concerned and can also be viewed at <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 a copy of this letter, including Annex 2, 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

14. 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 faithfully



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