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Your Ref: HB09141 EFTS Grids

Our Ref: NATTRAN/E/CATTLE GRIDS/01

Date: 26 March 2012

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Dear Madam

**SECTIONS 82 TO 90 AND SCHEDULE 10 OF THE HIGHWAYS ACT 1980 (“THE ACT”)  
PROPOSAL TO INSTALL CATTLE-GRIDS AND BY-PASSES WITHIN EPPING  
FOREST AT WAKE ROAD, CROSS ROADS, RANGERS ROAD AND FOREST SIDE  
 (“THE CATTLE-GRIDS AND BY-PASSES”)**

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to refer to the Public Local Inquiry held at High Beach Village Hall, Avey Lane, High Beach, Nr. Loughton IG10 4AB on 22 November 2011 to 24 November 2011 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 application made by Essex County Council (“the Council”) for the provision of cattle-grids and associated by-passes under sections 82 to 90 and Schedule 10 of the Highways Act 1980.

2. The application submitted to the Secretary of State was for the installation of the cattle-grids located within Epping Forest at:

- (i) Wake Road: approximately 30m South-West of the junction with A121 Woodridden Hill;
- (ii) Cross Roads: approximately 160m North-West of the junction with A104 Epping New Road;
- (iii) Rangers Road: approximately 130m South-West of the junction with A104 Epping New Road; and
- (iv) Forest Side: approximately 40m South of the junction with A121 Honey Lane.

## THE INSPECTOR'S REPORT

3. The Inspector has considered all the objections to and representations about the application 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 4.1 to IR 4.41, the case for the supporters at IR 5.1 and the case for the objectors at IR 6.1 to IR 6.34. The Inspector's conclusions are detailed at IR 7.1 to IR 7.27 and his recommendation is given at IR 8.1. The Legal Submissions for Epping Forest Riders Association are set out at IR 3.1 to IR 3.6 with the response for the Council on the Legal Submissions at IR 3.7 to IR 3.8 and the Inspector's conclusions on those Submissions at IR 7.3 to IR 7.4.

5. The Inspector, at IR 7.22, concluded that it is expedient to install the proposed four cattle-grids and by-passes and the purposes for which a right to install gates is exercisable would be adequately achieved by the provision of the cattle-grids. In light of his conclusions the Inspector recommended at IR 8.1 that consent be given for the installation of cattle-grids and by-passes within Epping Forest at Wake Road, Cross Roads, Rangers Road and Forest Side at the locations detailed on the public notices and accompanying Drawing Nos CP0066\D\7\100\101A, CP0066\D\5\100\101A, CP0066\D\4\100\101B and CP0066\D\1\100\101C, subject to the conditions set out in Appendix D of his report.

## THE STATUTORY FRAMEWORK

6. Under section 82 of the 1980 Act, the matter to be determined by the Highway Authority, for the related highway, is whether it is expedient, for the purposes of controlling the passage of animals along a highway, to provide cattle-grids and associated by-passes within Epping Forest at Wake Road, Cross Roads, Rangers Road and Forest Side. However, under sub-paragraph 3(4)(b) of Schedule 10 to the 1980 Act, the Authority is able to determine this matter in the affirmative only if, after considering the representations made, the Secretary of State consents. This would be subject to any conditions under which that consent is given.

## THE SECRETARY OF STATE'S DECISION

7. The Secretary of State has considered carefully all the objections to and representations about the proposals. She has considered the Inspector's report and agrees with the Inspector's findings and accepts his conclusions for the reasons given and his recommendation. She also accepts that the conditions referred to in paragraph 5 above are necessary and that any consent should be subject to those conditions as proposed by the Inspector.

8. In relation to the Legal Submissions made by Epping Forest Riders Association that the proposals could not lawfully be executed as they would be contrary to section 7(1) of the Epping Forest Act 1878, the Secretary of State notes the Inspector's conclusions on this matter at IR 7.3 and IR 7.4 and fully accepts for the reasons given by the Inspector that this is a matter of law and whether or not the erection of such fencing is lawful is not a matter that needs to be considered in determining whether consent should be given.

9. The Secretary of State does not consider that the matters raised in objections provide any overriding reasons why her consent to the installation of the cattle-grids and by-passes at the locations mentioned in paragraph 2 above should be withheld. Accordingly, and in exercise of the powers conferred by sections 82 to 90 and Schedule 10 of the Highways Act 1980, the Secretary of State gives her such consent, for the reasons set out above and subject to the conditions contained within that consent, to Essex County Council to determine in the affirmative an application for the installation of the four cattle-grids and by-passes as advertised in the Guardian Series of newspapers on 6 January 2011 and 13 January 2011. A copy of the consent is attached.

10. Once an application has been determined the Secretary of State has no further role in relation to the case and cannot comment further on the terms of the decision. There is no statutory provision for appeal against the decision but it can be challenged in the Courts promptly and, in any case, within 3 months of the date of this letter. The procedure for this involves an application to the High Court for permission to apply for a judicial review under the Supreme Court Rules.

11. A copy of this letter, together with a copy of the Inspector's report, is being sent to all those who made representations to the proposals and to other persons who appeared and made representations at the Inquiry and can also be viewed at <http://www.dft.gov.uk/topics/legislation/national-transport-casework/local-authority-orders/>. Further copies of these documents may be obtained from the National Transport Casework Team, 2nd Floor, Lancaster House, Hampshire Court, Newcastle Business Park, Newcastle upon Tyne NE4 7YH.

Yours faithfully

**KAREN DAVIES**

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

## HIGHWAYS ACT 1980 – SECTION 82 AND SCHEDULE 10

NOTICE OF DETERMINATION IS HEREBY GIVEN that, pursuant to Schedule 10 paragraphs 3(3), (4) and (6) of the Act, the Secretary of State for Transport has considered the proposals and representations and has caused a Public Local Inquiry to be held in connection with an application made by Essex County Council to install cattle-grids and cattle-grid by-passes within Epping Forest at –

- (i) Wake Road: approximately 30m South-West of the junction with A121 Woodridden Hill;
- (ii) Cross Roads: approximately 160m North-West of the junction with A104 Epping New Road;
- (iii) Rangers Road: approximately 130m South-West of the junction with A104 Epping New Road; and
- (iv) Forest Side: approximately 40m South of the junction with A121 Honey Lane.

After having considered the representations made to the proposals and the report of the Inspector appointed by her, the Secretary of State now gives her consent to the determination of the proposal by Essex County Council in the affirmative subject to the following conditions –

- (i) The cattle-grids shall comply with British Standard BS4008 and shall be maintained in accordance with the manufacturer's instructions;
- (ii) The by-pass gates shall be two-way opening and self-closing and shall comply with British Standard BS5709. They shall have signs attached to them that warn that they are self-closing and give telephone numbers to contact in the event that they are damaged or do not operate properly. The signs shall be retained as such thereafter and the gates shall be maintained in accordance with the manufacturer's instructions;
- (iii) The handles on the by-pass gates shall have separate lower grips for use by those that are mobility impaired. The handles shall be retained as such thereafter and maintained in accordance with the manufacturer's instructions;
- (iv) A retaining device shall be installed on both sides of the by-pass gates to allow them to be fixed open and shall be retained thereafter. The gates shall be locked open during the times of year when no cattle are grazing on Epping Forest;
- (v) Mounting blocks shall be installed at the side of the by-pass on both sides of the gates. The mounting blocks shall be retained thereafter; and
- (vi) Fencing shall be provided between the by-pass and cattle-grid for a minimum of 2.5 metres from the edge of the grid on both sides. The fencing shall be retained as such thereafter.

The effect of the determination would be to enable Essex County Council to install cattle-grids and by-passes at the four locations mentioned above as advertised in the Guardian Series of newspapers on 6 January 2011 and 13 January 2011 and as displayed on site.

Date: 26 March 2012

KAREN DAVIES  
An Official in the  
National Transport Casework Team  
Department for Transport