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Date: 2 January 2013

Dear Sir

**HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981**

**THE LUTON BOROUGH COUNCIL (STATION HOUSE, MIDLAND ROAD)
COMPULSORY PURCHASE ORDER 2011 ("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 Luton Town Hall, George Street, Luton, Bedfordshire on 25 October 2012 before Mr Martin Whitehead LLB BSc(Hons) CEng MICE ("the Inspector"), appointed by the Secretary of State to hear objections to and representations about the above named CPO submitted by Luton Borough Council. This letter conveys the Secretary of State's decision after considering the Inspector's report.

PROCEDURAL MATTER

2. An Inquiry had previously been held into objections to this Order on 14 March 2012 by a different Inspector. The first Inspector closed the Inquiry without making a recommendation because he had heard legal submissions regarded as inadmissible that breached the "without prejudice" rule in evidence for the statutory objector. This became the subject of the Secretary of State's decision letter of 21 May 2012 advising the parties that the Inquiry would be reopened and that any document submitted under cover of a "without prejudice" marking would be inadmissible at this second Inquiry. The Inspector appointed to hold the reopened Inquiry, confirmed at paragraph 1.2 of his report (a copy of which is enclosed with this letter) that he did not take part in the previous Inquiry and had

no knowledge of the earlier “without prejudice” evidence and, for this reason, stated that his position had not been prejudiced with regard to his conclusions and recommendation in his report. The Secretary of State can also confirm that, as the decision-maker, he has not seen nor has any knowledge of any of the earlier inadmissible evidence.

THE CPO

3. The CPO, if confirmed by the Secretary of State, would authorise Luton Borough Council to purchase compulsorily the land and the new rights over land therein for the purposes of:
 - a) the improvement of the highway around Station House and the access route from High Town to Luton Station; and
 - b) use by the highway authority in connection with the construction and improvement of the highway and the provision of a new means of access to Station House.

THE INSPECTOR'S REPORT

4. Subject to the statement made at paragraph 2 above, the Inspector has considered all the objections to and representations about the above CPO both as made in writing and presented orally at the Inquiry and has submitted his report to the Secretary of State. The references that follow in this letter to the Inspector's report are indicated by the abbreviation "IR" followed by the paragraph number in the report.

5. The Inspector's report summarises the case for the Council at IR 3.1 to IR 3.17; the case for the supporter at IR 4.1 and the objectors at IR 5.1 to IR 5.11. The Inspector's conclusions are recorded at IR 6.1 to IR 6.19 and his recommendation is at IR 7.1.

6. In light of his conclusions, the Inspector recommended that the CPO be modified to amend the words in the Schedule, Plot 3, Column 2, third paragraph to read: “The right to enter the land, to use the land to construct landscaping and laying out of the access to existing car parking spaces”, and that the Order so modified, be confirmed.

THE DECISION OF THE SECRETARY OF STATE

7. As stated in paragraph 2 above, the Secretary of State has no knowledge of the previously inadmissible evidence presented at the earlier March Inquiry. For this reason, he can confirm that he has not been prejudiced in taking his decision by this evidence or the March Inquiry. The Secretary of State has restricted his consideration of the objections to, and representations about, the CPO to those recorded in the Inspector's report of the October Inquiry. He has considered the report and accepts the Inspector's conclusions and recommendation.

8. The Secretary of State agrees with the criteria applied by the Inspector as set out in IR 6.2 that should be taken into account in deciding this matter, and

accepts his conclusions on each of these matters, for the reasons given, at IR 6.3 to IR 6.17.

9. Furthermore, the Secretary of State agrees with the Inspector's conclusions at IR 6.19, and having regard to the guidance in ODPM circular 06/2004, is satisfied for the reasons given by the Inspector, that there is a compelling case in the public interest in confirming the CPO, which justifies interfering with the human rights of those with an interest in the land

10. The Secretary of State is also satisfied that the modification to the CPO has no effect on the provisions in section 14 of the Acquisition of Land Act 1981 and for the reasons given by the acquiring authority for making this modification, as set out at IR 3.8, is satisfied that this would not prejudice the interests of any of the parties directly concerned.

11. The Secretary of State does not consider that the objections, singly or together, constitute grounds for not proceeding with the proposal, and accepts that the modification, should be included in the Order.

12. For these reasons the Secretary of State has decided to confirm the London Borough Council (Station House, Midland Road) Compulsory Purchase Order 2011 subject to the modification outlined in paragraph 6, and this letter constitutes his decision to that effect.

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

COMPENSATION

14. Details of compensation arising from confirming a CPO, are matters 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 published scheme. 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

15. A copy of this letter, together with a copy of the Inspector's report has been sent to objectors, 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 <https://www.gov.uk/legislation-administered-by-the-department-for-transport#town-and-country-planning-act-1990>

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 CPO 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

16. Notice is to be published of confirmation of the CPO. Any person who wishes to question the validity of the confirmed CPO, 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 CPO may, under 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 CPO has been confirmed. The High Court cannot entertain an application under the said section 23 before publication of the Notice that the Secretary of State has confirmed the CPO.

Yours faithfully

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