



Department
for Transport

Mr R Williams
Head of Legal and Democratic Services
County Hall
Truro
TR1 3RY

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

Your
Ref:

Our Ref: DN5048/55/7/11
DN5048/60/1/44

Date: 22 November 2012

Direct line: 0191 226 [REDACTED]

www.gov.uk/dft

Email: [REDACTED]

Dear Sir

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

**CAMBORNE-POOL-REDRUTH STAGE 1 EAST - WEST LINK ("the
published scheme");**

**THE CORNWALL COUNCIL (CAMBORNE POOL REDRUTH) (HIGHWAY
IMPROVEMENTS) (CLASSIFIED ROAD) (SIDE ROADS) ORDER 2011
("the SRO"); and**

**THE CORNWALL COUNCIL (CAMBORNE POOL REDRUTH) (HIGHWAY
IMPROVEMENTS) 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 concurrent Public Local Inquiries ("the Inquiry") held at The Penventon Park Hotel, West End, Redruth between 19 and 22 June 2012 before Mr David Wildsmith BSc (Hons) MSc CEng MICE FCIHT MRTPI, an Inspector appointed by the Secretary of State to hear objections to and representations about the above named Orders submitted by Cornwall Council ("the Council").

2. The SRO and CPO, if confirmed by the Secretary of State, would authorise the Council to:

- a. improve or stop up lengths of highway, construct new highways and stop up and/or provide new private means of access (PMA) to premises, in order to construct the Camborne-Pool-Redruth Stage 1 East-West Link; and
- b. compulsorily purchase land and rights in order to construct the Camborne-Pool-Redruth Stage 1 East-West Link with its associated works and mitigation measures, as provided for by the above mentioned SRO.

THE INSPECTOR'S REPORT

3. The Inspector has considered all the objections to and representations about the above 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. 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 3.1 to IR 3.74; the case for the objectors at IR 5.1 to IR 5.40; and the Council's rebuttal to individual objections at IR 6.1 to IR 6.49. The Inspector's conclusions are recorded at IR 7.1 to IR 7.83 and his recommendations are at IR 8.1 to IR 8.2.

5. In light of his conclusions, the Inspector recommended that the SRO be modified as set out at IR 7.73 and IR 7.74; and that the CPO be modified as set out at IR 7.78 and IR 7.79 and that the Orders so modified, be confirmed. The modifications to the SRO described at IR 7.73 are:

- Site Plan 3 should be revised to correct a minor drafting error identified by the Ramblers Association, relating to the southern end of the new highway (bridleway) B;
- in the paragraphs defining "classified road" under paragraph 3, a distance of 140m should be given for Wilson Way, instead of the distance of 1,216m currently stated;
- in Schedule 1, Under Site Plan 1 "Highways to be stopped up", the reference should be to "Pool Market" rather than to "Par Moor Market";
- in Schedule 2, under Site Plan 2 "Private Means of Access to be stopped up", the three references to "Access to "Tescan" commercial premises Wilson Way" should be "(s)", "(r)" and "(q)" instead of "(l)", "(m)" and "(n)" respectively;
- in Schedule 3, under Site Plan 3 "Highways to be stopped up", the distance relating to the Mineral Tramways Trail should be 125m, rather than 105m;

- in Site Plan 1, the reference arrows to areas 4/g and 5/h need to be transposed, so that the letters identify the PMA to be stopped up and the numbers identify the new PMA to be created; and
 - in Site Plan 2, the reference arrow to area 3/d needs to be transposed, so that the letter identifies the PMA to be stopped up and the number identifies the new PMA to be created.
6. The modifications described at IR 7.78 and IR 7.79 to the CPO are:
- Site Plan 1 and the Schedule, should be revised to exclude a small strip of land, to enable Cornish Linen Services (Objector 07) to purchase a strip of land along their southern boundary in order to achieve a better flow of vehicles around the site;
 - Site Plan 2 and the Schedule should be revised to reflect the fact that the exclusive left filter lane, originally proposed to serve east to south-west traffic movements from Wilson Way to the new road, is no longer needed; and
 - In Article 1(iii)e, the geographical description needs to be amended from "... 568 metres in a westerly and then a northerly direction..." should read "...568 metres in an easterly and then a northerly direction...".
7. The modification described at IR 7.74 is a typographical error, not in the SRO but in the Notice that accompanies it. The Secretary of State agrees with the Inspector at IR 7.74 and is satisfied that, as this does not directly relate to the SRO, anyone with an interest in these Orders would not have been unacceptably prejudiced by this error and therefore it is not proposed to formally correct this error at this stage in the procedure.
8. Although the Inspector at IR 8.1 and IR 8.2 has recommended that the Orders be modified as indicated in his report and should be confirmed, the Secretary of State proposes to make an additional minor modification to the CPO at Article 1(v). The geographical description needs amending from "260 metres southwest of its junction with Trevenson Road" to "265 metres southeast of Trevenson Road" to be consistent with the SRO Sch 3(2)a.
9. The modifications to the SRO and CPO were proposed during discussions in the course of the Inquiry along with other matters identified in writing on behalf of the Secretary of State prior to the Inquiry.

POST INQUIRY CORRESPONDENCE

10. Following the close of the Inquiry, correspondence has been received from Mr E R Nute of The Cornish Stannary Parliament, from Jill Fox B.A. and from the Council. Mr Nute submitted a complaint regarding apparent irregularities in the Cornwall Council's submission put to the Inspector before

the Inquiry closed. Jill Fox's further correspondence is a complaint regarding the closing submission by the Council's Barrister. The Council submitted a letter from English Heritage dated 30 October 2012 conveying the Secretary of State for Culture, Media and Sport's decision in relation to an application made for Listed Building status not to add Basset (Bartle's) Foundry, Cornwall to the List at this time.

THE DECISION OF THE SECRETARY OF STATE FOR TRANSPORT

11. The Secretary of State has noted the legal issues recorded in IR 7.6 to IR 7.13, together with the submitted inquiry documents that have been referred to and the Council's response at IR 6.32 and IR 6.36. The Secretary of State has also considered the Inspector's opinion on this matter at IR 7.9 and IR 7.12 and agrees that the interpretation of Stannary rights is a matter of law, which only the Courts can authoritatively determine. Nevertheless, the Secretary of State agrees with the Inspector and accepts his findings that no firm evidence has been presented to show that the Cornish people should be considered a National Minority for the purposes of the Framework Convention, or whether or not the bounding of land would prevent it from being compulsorily acquired. The Secretary of State is satisfied that the laws of England apply equally to Cornwall as they do any other part of the Country and this includes those relating to the compulsory purchase of land under the Highways Act 1980 and the Acquisition of Land Act 1981. For this reason, the Secretary of State is satisfied that there is no legal impediment to prevent him from reaching a decision on these Orders.

12. 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 recommendations subject to the additional modification detailed at paragraph 8 above.

13. The Secretary of State has also carefully considered the matters raised in the post-inquiry correspondence alongside the Inspector's report in reaching his decision. However, he is satisfied that this does not cause him to disagree with the Inspector's conclusions and recommendations.

14. 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 7.78 to IR 7.83 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.

15. 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 paragraphs 5, 6, and 8 above do not amount to a substantial change, and as they are regarded as necessary, they should be included in the Orders accordingly. For these reasons, the

Secretary of State has decided, as none of these modifications affect the substance of the Orders or have any practical impact on those affected by them, to confirm the SRO and the CPO referred to above subject to the modifications outlined in paragraphs 5, 6 and 8, and this letter constitutes his decision to that effect.

16. 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

17. 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

18. 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 <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 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

19. 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