



**Department
for Transport**



**Department for
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Addressee as on envelope

Dear Sir or Madam,

**HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981
A5 – M1 LINK DUNSTABLE NORTHERN BYPASS**

1. We are directed by the Secretary of State for Transport and the Secretary of State for Communities and Local Government (“the Secretaries of State”) to refer to the concurrent public Inquiries (“the Inquiry”) that sat for 10-sitting days between 7 February 2012 to 2 March 2012, before Mr David Wildsmith, BSc(Hons), MSc, CEng, MICE, FCIHT, MRTPI, an independent Inspector appointed by the Secretaries of State, to hear objections to, and representations about, the following draft Scheme and Orders, and the Exchange Land Certificate:

THE M1 MOTORWAY (A5–M1 LINK DUNSTABLE NORTHERN BYPASS CONNECTING ROADS) SCHEME 20.. (“CRS”);

THE A5 TRUNK ROAD (A5–M1 LINK DUNSTABLE NORTHERN BYPASS) SIDE ROADS ORDER No. 1. 20.. (“SRO1”);

THE A5 TRUNK ROAD (A5–M1 LINK DUNSTABLE NORTHERN BYPASS) SIDE ROADS ORDER No. 2. 20.. (“SRO2”)

THE A5 TRUNK ROAD (A5–M1 LINK DUNSTABLE NORTHERN BYPASS) ORDER 20 (“LO”);

THE A5 TRUNK ROAD (A5–M1 LINK DUNSTABLE NORTHERN BYPASS)
(DETRUNKING) ORDER 20.. (“DO”);

THE A5 TRUNK ROAD (A5-M1 LINK DUNSTABLE NORTHERN BYPASS)
COMPULSORY PURCHASE ORDER No 1 (HA No.) 20.. (“CPO1”);

THE A5 TRUNK ROAD (A5-M1 LINK DUNSTABLE NORTHERN BYPASS)
COMPULSORY PURCHASE ORDER No 2 (HA No) 20.. (“CPO2”); and

EXCHANGE LAND CERTIFICATE (“Certificate”).

2. This letter conveys the decision of the Secretaries of State on the published Scheme, Orders and Exchange Land Certificate, following consideration of the Inspector’s report.

3. The draft Scheme and Orders, if made and the Certificate if issued, would make provision for a new all-purpose dual 2-lane carriageway, with a total length of 4.6 km, to run from the existing A5 trunk road, north of the A505 roundabout, to a new junction on the M1 motorway south-east of Chalton (“the published scheme”). The draft CPOs would provide for the acquisition of land and rights necessary to carry out the published scheme. The exchange land certificate relates to three areas of land, which fall within an area designated as Public Open Space by Luton Borough Council. These areas amount to a total of 196sqm and are required either for a private means of access or for working space to construct the private means of access.

THE INSPECTOR’S REPORT

4. A copy of the Inspector’s report is enclosed. In this letter, references to paragraph numbers in the Inspector’s report are indicated by the abbreviation “IR”.

5. The Inspector recorded at IR 1.10 and IR 1.11 that a total of 10 Alternative Routes (AR1 to AR10) were proposed. Following the formal publication of and consultation on these alternatives, there were 59 expressions of support from 56 separate supporters, and a total of 36 counter-objections from 16 separate counter-objectors. AR4 and AR9 were subsequently withdrawn by their promoters. An e-petition to the Number 10 website was also put forward by the Dunstable Area Focus Group, urging that the published scheme should go ahead. At the opening of the Inquiry, there were 41 objections and 6 representations outstanding to the CPOs and the other associated Orders and Scheme. During the course of the Inquiry, discussions and negotiations continued between the Highways Agency and

other parties. By the time the Inquiry closed, 32 objections and 5 representations were remaining; the others having been withdrawn. The main grounds of objection are summarised at IR 1.14.

6. The Inspector also reported at IR 4.1 to IR 4.8 that the scheme was supported by Mr Andrew Selous, the local Member of Parliament for South West Bedfordshire, and at IR 4.9 to IR 4.13 by Mr Hemming, a resident of Houghton Regis, although he maintained that it should not include any links from local roads to the proposed Junction 11A. Councillor Nigel Young, from Central Bedfordshire Council, also supported the scheme for regeneration reasons (IR 4.14 to IR 4.18); and a number of other individuals and organisations (11 in all), offered their support for the published scheme (IR 4.19).

THE DECISION OF THE SECRETARIES OF STATE

7. The Secretaries of State have carefully considered the Inspector's report together with all the objections, alternative proposals, counter objections, representations and expressions of support made, both orally and in writing, and all post-inquiry correspondence. In reaching their decision, they have also considered the requirements of local and national planning, including the requirements of agriculture.

Decision on the Environmental Statement

8. The Secretary of State for Transport ("the SoSfT") is satisfied that the requirements of European Directive No. 85/337/EEC, as amended by Directive No. 97/11/EC and Directive No. 2003/35/EC, implemented by sections 105A, 105B, 105C and 105D of the Highways Act 1980, have been complied with fully in respect of the published scheme ("the project" for the purpose of the Directive). The SoSfT is also satisfied that the Environmental Impact Assessment undertaken for the project and the Environment Statement, have properly identified, assessed and addressed all significant environmental effects, and considered and given reasons for dismissing the main alternatives, as well as assessing the proposed measures to minimise these impacts. The SoSfT is satisfied that members of the public and others concerned have been given reasonable opportunity to express their opinion before deciding whether to proceed with the project to which the assessment relates. Therefore, having considered the Statement and any opinions expressed on it by the public and others, the SoSfT has decided, to proceed with the project to which the assessment relates. For the purpose of section 105B(6) of the Highways Act 1980, publication of the SoSfT's decision to proceed with the scheme will be given by public notice as set out in section 105B(7).

Decision on the Published Scheme

9. The Secretaries of State note, as reported at IR 1.17, that the National Planning Policy Framework (“the Framework”), which replaced the previous suite of Planning Policy Guidance and Planning Policy Statements relevant to this scheme, was published on 27 March 2012. As the Secretaries of State need to make their decision on the matters before this Inquiry in the light of current planning guidance, the Inspector decided that even though the Inquiry had closed it would be appropriate to allow all parties to indicate how, if at all, their cases were affected by the publication of the Framework. The Secretaries of State further note that a short consultation on this matter was undertaken after the close of the Inquiry, and the Highways Agency and a few other parties took the opportunity to clarify their position in the light of the Framework. These points are included in the cases of the parties, and are set out in the Inspector’s report, to which he had regard in reaching his recommendations.

11. The Secretaries of State are satisfied that the Inspector’s conclusions cover all material considerations relevant to the scheme as a whole, and accept his recommendations, subject to the comments in the following paragraphs.

Matters arising

12. The Secretaries of State, in considering the Inspector’s report, make the following comments on matters raised in the report:

Policy Context and effect of scheme on Green Belt

13. The Secretaries of State accept the Inspector’s conclusions at IR 9.14 to IR 9.18 and agree, for the reasons he has given, that the published scheme accords with prevailing transport policy at national, regional and local level and would represent sustainable development. They also accept his overall conclusion at IR 9.23 that the published scheme would not be in conflict with prevailing development plan policies, nor would it be at odds with national guidance in the Framework. The Secretary of State for Transport is satisfied that the published scheme is consistent with the Government’s transport policy objectives.

14. The Secretaries of State note at IR 3.41 that the published scheme falls within the South Area, Central Bedfordshire Green Belt, and that Planning Policy Guidance No 2 “Green Belts” extant at the time the published scheme was developed, was taken into consideration. This had set out a general presumption against inappropriate development in the

Green Belt with new roads falling into this category and, although PPG2 is no longer extant, the policy on protecting Green Belts is carried forward in the Framework, published shortly after the close of the Inquiry. It is also noted that the Inspector recorded at IR 9.19 that in Green Belt terms, the Framework indicates that such development, which can demonstrate a requirement for a Green Belt location, is not inappropriate provided it maintains openness and does not conflict with the purposes of including land in the Green Belt.

15. The Secretaries of State have considered this matter in the light of the guidance in the Framework and, for the reasons set out by the Inspector in IR 9.19 and IR 9.21, agree with his findings that the published scheme would maintain the openness of the Green Belt by nature of its design. For this reason, they take the view that, as it does not conflict or materially compromise the purpose of the Green Belt, this should not be viewed as inappropriate development in the Green Belt. Furthermore, the Secretaries of State also agree that, as the benefits of the published scheme recorded at IR 9.21 would clearly outweigh any harm to the Green Belt, this would constitute very special circumstances sufficient to justify the scheme.

Noise, Air Quality and Lighting

16. The Secretaries of State note the concerns recorded in section 5 of the Inspector's report made by the fourteen objectors (listed in the footnote at the bottom of page 82 of the Inspector's report). The Secretaries of State further note the conclusions reached by the Inspector at IR 9.90 to IR 9.105 on these concerns and agree with the Inspector's overall conclusion in IR 9.106 and accept, for the reasons given, that the published scheme would not have an unacceptable adverse effect in terms of noise, air quality and lighting.

Disruption during Construction

17. The Secretaries of State have noted the concerns of the six objectors (listed in the footnote at the bottom of page 85 of the Inspector's report) recorded at IR 5.4 to IR 5.13, IR 5.30 to IR 5.34, IR 5.51, IR 5.56, and IR 5.57, together with the Highways Agency's response at IR 8.83. The Secretaries of State further note the Inspector's conclusions on these concerns at IR 9.107 to IR 9.111 and agree with his overall conclusion at IR 9.112, and for the reasons given, accept that after taking all the points into account, the published scheme would not give rise to unacceptable disruption during construction.

Effect of scheme on Public Rights of Way Network (“PRoW”)

18. The Secretaries of State note the concerns of the six objectors (listed in the footnote at the bottom of page 86 of the Inspector’s report) summarised at IR 5.37, IR 5.47 to IR 5.49, IR 5.4 to IR 5.13, IR 5.57, IR 5.63, and IR 6.3 to IR 6.7, together with the Highways Agency’s response at IR 8.94. The Secretaries of State further note the Inspector’s conclusions at IR 9.113 to IR 9.126 and agree with his overall conclusion at IR 9.127, and accept, for the reasons given, that modification No 2 to the SRO No 1, sheet 5, incorporating an addition link (new highway ref F) via steps between Footpath 16 and the new highway ref D, should be incorporated into the SRO on making and that this would not amount to any unacceptable adverse impact on the PRoW network as a result.

Effect on access arrangements to various properties and AR8

19. The Secretaries of State note the concerns of the six objectors (listed in the footnote at the bottom of page 88 of the Inspector’s report) as summarised at IR 3.102 and IR 9.103, IR 3.107 to IR 3.109, IR 5.43 to IR 5.45, IR 5.53, and IR 5.54 and IR 5.55. The Secretaries of State further note the conclusions of the Inspector on these concerns at IR 9.128 to IR 9.137 and accept, for the reasons given, that AR8, as defined by the Highways Agency and set out in Side Roads Order No 2 Sheet 1 Modification No 1, be incorporated into the published scheme. Furthermore, they take the view that in respect of the concern relating to Long Meadow Farm, this would be resolved by incorporating Side Roads Order No 2 Sheet 2 Modification No 2 into the published scheme.

CPO powers in relation to certain plots

20. The Secretaries of State note the concerns of the two objectors (listed in the footnote at the bottom of page 90 of the Inspector’s report) summarised at IR 5.43 to IR 5.45 and IR 5.60 to IR 5.62, together with the Highways Agency’s response at IR 8.112 to IR 8.116. The Secretaries of State further note the Inspector’s conclusions on these concerns at IR 9.138 to IR 9.145, and accept, for the reasons given, that there are sound reasons why each of the queried plots are necessary for the construction of the published scheme and agree that CPO powers should be used to acquire them.

Other Matters

21. The Secretaries of State note the concerns of the objectors, Mr Ford summarised at IR 5.39, Mrs Kitchen and Mr Bough at IR 5.50 and IR 5.51,

Mr and Mrs Hull at IR 8.108, and the unwithdrawn objections of Mr Sullivan and CPRE West Midlands Regional Transport Group at IR 5.14 and IR 5.59 and the Highways Agency's response at IR 8.110 and IR 8.111. The Secretaries of State note the Inspector's conclusions on the matters at IR 9.146 to IR 9.151 and accept, for the reasons given, that none of the objections made by Mr Ford, Mrs Kitchen, Mr Bough, Mr and Mrs Hull, Mr Sullivan and the CPRE West Midlands Regional Transport Group, can be sustained.

Objector's Alternatives

22. The Secretaries of State note that the Inspector at IR 9.39 to IR 9.61 and IR 9.68 to IR 9.89 considered the remaining eight Objectors' Alternatives (AR 1 to AR 3, AR 5 to AR 8 and AR 10) and reached conclusions on each of them, concluding overall at IR 9.87, that none of these alternatives, other than AR 8, which is dealt with separately at IR 9.128 to IR 9.135 and by the Secretaries of State at paragraph 19 above, performed better than the published scheme. The Secretaries of State also agree with the Inspector's conclusions at IR 9.89, that the published scheme would not have an unacceptably adverse impact on Chalton or other nearby villages, and that the provisions of local road connections to Junction 11A at this time, or modifications to the layout of this junction, cannot be justified.

Post-Inquiry Correspondence

23. Since the close of the Inquiry, correspondence has been received from Mr Edward Buckingham, Ms Barbara Butters, Mrs Beverley Brookes, and Mr and Mrs Cremin. The Secretaries of State have considered this correspondence carefully alongside the Inspector's report in reaching their decision. However, they are satisfied that the matters raised in the post-inquiry correspondence have either been addressed by the Inspector or are such as to not cause them to disagree with the Inspector's conclusions and recommendations.

Decision on the Draft Orders and Certificate

Line Order and Connecting Roads Scheme

24. The Secretaries of State have considered the Inspector's conclusions on the Line Order ("LO") and the Connecting Roads Scheme ("CRS") at IR 9.155 to IR 9.158 and, for the reasons given, fully agree with his findings. They accept his overall conclusion in IR 9.158 that the LO and the CRS should be made as drafted.

Detrunking Order

25. The Secretaries of State have considered the Inspector's conclusions for the making of the Detrunking Order ("DO") and agree with his overall conclusion, for the reasons given, that the DO should be made as drafted.

Side Roads Orders

26. The Secretaries of State note that the Highways Agency asked for the two Side Roads Orders, SRO1 and SRO2, to be modified as set out and explained in Inquiry Doc HA/0/32, and have considered the Inspector's conclusions on these at IR 9.161 IR 9.169. The Secretaries of State accept the Inspector's overall conclusion at IR 9.170 and agree that, for the reasons given, SRO1 and SRO2 should be made incorporating these modifications. They concur with the Inspector's findings at IR 9.168 and are satisfied that these modifications do not, in their opinion, make a substantial change to the draft Orders for the purposes of the provisions in paragraph 8(3) of Schedule 1 to the Highways Act 1980.

Compulsory Purchase Orders

27. The Secretaries of State also note that the Highways Agency asked for CPO1 and CPO2 to be modified as set out and explained in Inquiry Doc HA/0/32, and have considered the Inspector's conclusions on these at IR 9.171 IR 9.181. The Secretaries of State accept the Inspector's overall conclusion at IR 9.182 and agree that CPO1 should be made incorporating CPO modification Nos 1 and 2; and CPO2 should also be made incorporating CPO modifications Nos 1, 2, and 3. The Secretaries of State note the Inspector's finding at IR 9.179 and are satisfied that these modifications can be made in accordance with the provisions in paragraphs 4 and 5 of Schedule 1 to the Acquisition of Land Act 1981. Nevertheless, the decision of the Secretaries' of State to modify the CPO is given on the understanding that, if any additional land-take is required from that shown in the draft CPO to implement these modifications, the written agreements of the relevant landowners for these changes will have been obtained if it has not already been granted.

Exchange Land Certificate

28. The Secretaries of State note at IR 9.13 that some of the land required for the published scheme falls within an area of Public Open Space, as designated by Luton Borough Council. The purchase of such land shall be subject to special parliamentary procedure unless the Secretary of State for Communities and Local Government ("the SofS CLG"), who is responsible for this matter, is satisfied that certain criteria apply. Section 19(1)(b) of the

Acquisition of Land Act 1981 allows development to take place in small areas of Public Open Space without the need to provide exchange land, provided the area of land required is less than 209sqm (250 sq yards). The SofS CLG agrees with the Inspector's conclusion in IR 9.183 that development could take place on the land without the need to provide exchange land, and accepts that the Public Notice of Intention to Issue a Certificate to this effect should be issued as drafted at the same time as the final Orders and Scheme are issued.

Position on Scheme Funding

29. As part of the Government's Spending Review, the Secretary of State for Transport in his statement of 26 October 2010 "Investment in Highways and Local Transport Schemes" identified the A5 – M1 Link Road as a project for start of construction in future spending review periods, subject to the completion of its statutory processes. However, immediately after the statement, it was agreed that, subject to the terms of an agreement with Central Bedfordshire Council and the developers of the Houghton Regis site, they would together make a voluntary contribution of £50m towards the published scheme. This would permit development work on the A5-A1 Link Road to commence sooner than the outcome of the spending review would have allowed with an estimated start of works on site in 2014.

Interim Decision on the Published Scheme

30. The Secretaries of State concur with the Inspector's findings at IR 9.181 and, furthermore, are satisfied that funding for this scheme will become available within a reasonable timescale and that this is not seen as an impediment to its implementation. For these reasons, they are therefore minded to accept in principle the Inspector's recommendation at IR 10.1 to IR 10.8 to make the draft Orders and Scheme and to publish the Certificate accordingly to show that the Secretary of State for Transport is committed to delivering this scheme as quickly as possible. However, they propose for the time being to defer taking a final decision on the draft Scheme and Orders and on publishing the Certificate, to allow a reasonable period of time to enable the parties to the agreement referred to in paragraph 29 above, to make their funding contribution. Furthermore, it is considered expedient for the purpose of informing all interested parties of the progress on this scheme since the local Inquiry earlier this year, to publish this letter and the Inspector's report at this time. A further letter will be issued in due course.

AVAILABILITY OF INSPECTOR'S REPORT

31. A copy of this letter and the Inspector's report has been sent to statutory objectors and to any other person who, having appeared at the inquiry, has asked to be notified of the decision of the Secretaries of State. Any person, who is entitled to be supplied with a copy of the Inspector's report, may apply to the Secretary of State for Transport within six-weeks of receipt of this letter, to inspect any document appended to the report. Any such application should be made to Tony Sherwood (telephone number 0207 944 6086) at the Department for Transport. Applicants should indicate the date and time (within normal office hours) when they propose to make the inspection. At least three days' notice should be given, if possible.

Yours faithfully

On behalf of the Secretary of State for Transport

Jean Nowak

On behalf of the Secretary of State for Communities and Local Government