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Our Ref: NATTRAN/NW/LAO/122

Date: 20 March 2018

Dear Mr Williams

**THE CHESHIRE EAST BOROUGH COUNCIL (A536 CONGLETON LINK ROAD)
(CLASSIFIED ROAD) (SIDE ROADS) ORDER 2016 (“the SRO”)**

**THE CHESHIRE EAST BOROUGH COUNCIL (A536 CONGLETON LINK ROAD)
COMPULSORY PURCHASE ORDER 2016 (“the CPO”)**

**SECRETARY OF STATE’S DECISION – ORDERS TO BE CONFIRMED WITH
MODIFICATIONS**

1. I refer to your application, submitted on behalf of Cheshire East Borough Council (“the Council”), for confirmation of the above named SRO and CPO. The Secretary of State for Transport (“the Secretary of State”) has decided to confirm, as modified by him, the Orders and this letter constitutes his decision to that effect.

2. The confirmed SRO and CPO will, respectively, authorise the Council to:

- (i)
 - (a) improve highways;
 - (b) stop up highways;
 - (c) construct new highways;
 - (d) stop up private means of access to premises; and
 - (e) provide new means of access to premises,

all on or in the vicinity of the route of the classified road known as A536 Congleton Link Road which the Council are proposing to construct from a point 50m west of the junction of Sandy Lane and the existing Sandbach Road (A534), first northwards and then generally eastwards for a distance of 5700m to form a junction with Macclesfield Road (A536); and

(ii) purchase compulsorily the land and new rights over land for the purpose of the construction and improvement of highways together referred to as “the classified road”, the construction and improvement of highways to connect the classified road to the existing road system in pursuance of the SRO, the provision of new means of access to premises in pursuance of the SRO, the construction of works for the drainage of the classified road and the new and improved highways, mitigating the adverse effect which the existence of the

highways proposed to be constructed or improved will have on the surroundings thereof and the use by the acquiring authority in connection with the construction and improvement of highways the provision of new means of access and the mitigation of adverse effects.

MODIFICATIONS

3. The Secretary of State will make the modifications to the Orders as agreed in the Inspector's Report at paragraphs 8.37 and 8.41 to 8.43 and as detailed in Inquiry Document CEC/24 which can be found as an annex to this letter. The Secretary of State is satisfied that the modifications are necessary and, in agreement with the Inspector's conclusions at paragraphs 8.38 and 8.44, that they do not require additional land outside that required for the published scheme and may be made. In relation to the CPO it is to be noted that the wording of the description for new Plot 2/3c as detailed at CPO Amendment No. 5 of Inquiry Document CEC/24 has since been modified slightly and will now read 'The right to enter and re-enter upon 592 square metres of pasture land north west of Chelford Road's junction with Black Firs Lane and north west of the property known as Holford for all purposes connected with the diversion and maintenance of a sewer, access to a noise attenuation bund for construction and maintenance purposes and the construction of a private means of access.' This has been agreed by the Council with Mr D and Mrs G Bell, owners of this plot.

4. The Secretary of State will also make the modifications listed below. Modifications (i), (iii) and (iv) were agreed with the Council prior to the Inquiries and Modification (ii) is as a result of SRO Amendment No. 10.

SRO:

(i) Schedule 5 Highways to be stopped up - 'Manchester Road (A34) from a point 65m north of its junction with Moss Lane, northwards for a distance of 70m' to be modified to read 'Manchester Road (A34) from a point 100m north of its junction with Moss Lane, northwards for a distance of 55m'.

(ii) Schedule 5 Highways to be improved - 'Moss Lane to be improved through provision of a turning head located 65m south of its junction with Manchester Road (A34)' to be modified to read 'Moss Lane to be improved through provision of a turning head south of its junction with Manchester Road (A34)'.

CPO:

(iii) The name of the SRO at Article 1 (2) to be modified to read 'the Cheshire East Borough Council (A536 Congleton Link Road) (Classified Road) (Side Roads) order 2016'.

(iv) Map 1 – scale of 1:1,250 to be inserted into Inset 1.

CONSIDERATIONS FOR DECISION

5. As statutory and non-statutory objections remained outstanding to the Orders it was decided that concurrent Public Local Inquiries should be held for the purposes of hearing those objections. Such Inquiries were held on 16, 17 and 24 May 2017 at Congleton Town Hall, following a pre-Inquiries meeting held at the same location on 6 April 2017,

before Inspector S Roscoe BEng MSc CEng MICE, an independent Inspector appointed by the Secretary of State.

6. The Inspector considered all representations and objections about the Orders during the Inquiries and has since submitted a report to the Secretary of State, a copy of which is enclosed with this letter. The Secretary of State has given careful consideration to the Inspector's report and also to a number of relevant issues, as set out in *Guidance on Compulsory purchase process and The Criche Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion and The Highways Act 1980* (sections 14 and 125), in reaching his decision on the Orders.

In relation to the CPO, namely that:

- i) there should be a compelling case in the public interest to acquire all the land and that this should sufficiently justify interfering with the human rights of those with an interest in the land affected;
- ii) the acquiring authority should have a clear idea of how it intends to use the land that it wishes to acquire;
- iii) sufficient resources should be available to complete the compulsory acquisition within the statutory period following confirmation of the Order, and to implement the scheme; and
- iv) there should be a reasonable prospect of the scheme going ahead and it should be unlikely to be blocked by any impediment to implementation.

In relation to the SRO, namely that:

- i) where a highway is to be stopped up another reasonably convenient route is available or will be provided before the highway is stopped up;
- ii) where a private means of access to premises is to be stopped up either no access to the premises is reasonably required or another reasonably convenient means of access to the premises is available or will be provided; and
- iii) provision will be made for the preservation of any rights of statutory undertakers in respect of their apparatus.

CONCLUSION

7. The Secretary of State has considered carefully all the objections to, and representations about, the Orders, including alternative proposals put forward and counter objections. In particular, consideration has been given to 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 paragraphs 8.34, 8.35 and 8.45 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.

8. He is satisfied that the scheme, for which the Order land is required, consists of the construction and improvement of highways and that the scheme has the benefit of a valid

planning permission. He is further satisfied that, in exercising its powers under sections 239, 240, 246, 250 and 260 of the Highways Act 1980, the Council is pursuing the compulsory purchase of land and rights required for the construction of the A536 Congleton Link Road and for the construction and improvement of highways and new means of access to premises in pursuance of the SRO and for the mitigation of adverse effects. Furthermore, he is satisfied that there are clear descriptions of why the Order lands are required and how they will be used. The Council has confirmed that funding is available for delivery of the scheme and the Secretary of State is satisfied that there are no anticipated impediments to the scheme going ahead. The Secretary of State notes that there are no outstanding objections from statutory undertakers and, in agreement with the Inspector, is satisfied that where highways and private means of access to premises are to be stopped up that a reasonably convenient alternative route or access would be provided.

9. Following the close of the Inquiries an issue regarding the accuracy of air quality data provided by Cheshire East Borough Council came to light. Further information was subsequently received from the Council and reviewed by the Inspector who produced an addendum report on 12 February 2018. A copy of the addendum report is also enclosed with this letter.

10. The Secretary of State has carefully considered the post Inquires correspondence received and the addendum report and has taken them into account in his decision.

11. Having considered all aspects of the matter the Secretary of State is satisfied that there are no compelling reasons brought forward which would justify not confirming the Orders. Accordingly, the Secretary of State agrees with the Inspector's recommendation, subject only to the making of the additional modifications to the Orders as referred to in paragraph 4 above, and has decided to confirm, as modified by him, 'The Cheshire East Borough Council (A536 Congleton Link Road) (Classified Road) (Side Roads) Order 2016' and 'The Cheshire East Borough Council (A536 Congleton Link Road) Compulsory Purchase Order 2016'.

12. 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

13. 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 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. 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

14. A copy of this letter and accompanying annex, together with a copy of the Inspector's report and addendum report, have been sent to those parties who appeared at the Inquiries,

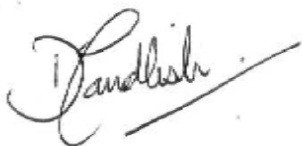
other interested parties and relevant Members of Parliament. Copies will be made available on request to any other persons directly concerned and will also be made available for viewing at <https://www.gov.uk/government/collections/highways-act-inspectors-reports-and-decision-letters>.

15. Please arrange for a copy of the Inspector's report, addendum report and of this letter, including its annex, 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

16. 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 sincerely,

A handwritten signature in black ink, appearing to read 'Dave Candlish', with a long horizontal flourish extending to the right.

DAVE CANDLISH

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