



Department for
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Addressee as on envelope

Dear Sir or Madam,

**HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981
A45/A46 TOLLBAR END JUNCTION IMPROVEMENT**

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 4 days between 26 January 2010 and 3 February 2010 before Mr J P Watson, BSc, FCIHT, MICE, MCMI, an independent Inspector appointed by the Secretaries of State, to hear objections to, and representations about, the following draft Orders and Exchange Land Certificate:

**THE A45 TRUNK ROAD (A45/A46 TOLLBAR END JUNCTION IMPROVEMENT)
ORDER 200_ ("the Line Order");**

**THE A45 TRUNK ROAD (A45/A46 TOLLBAR END JUNCTION IMPROVEMENT)
(SIDE ROADS) ORDER 200_ ("the SRO");**

**THE A45 TRUNK ROAD (A45/A46 TOLLBAR END JUNCTION IMPROVEMENT)
COMPULSORY PURCHASE ORDER (MP NO. XX) 200_ ("CPO"); and**

**NOTICE OF INTENTION TO ISSUE A CERTIFICATE UNDER PARAGRAPH 6(1)(C) OF
SCHEDULE 3 TO THE ACQUISITION OF LAND ACT 1981 ("the Certificate").**

2. This letter conveys an interim “minded-to” decision of the Secretaries of State on the above published Orders and Certificate, following consideration of the Inspector’s report. The reason for this “minded-to” decision is explained in paragraphs 29 and 31 below.

3. The draft Orders if made as published, and the Certificate, if issued, would provide for the improvement of the A45 Stonebridge and the Tollbar End roundabout in southern Coventry as explained in paragraph 1.3 of the Inspector’s report. This is referred to hereafter in this letter as the “published scheme”.

4. The draft CPO would provide for the acquisition of land and rights necessary to carry out the published scheme. The Certificate relates to rights over land at Stonebridge Meadows Nature Reserve, north of the A45 Stonebridge, which falls within an area designated as public open space. The land affected by the rights to be acquired does not exceed 209 square metres in extent.

THE INSPECTOR’S REPORT

5. 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”.

6. The Inspector recorded at IR 1.4 that at the start of the Inquiry there were 22 objections to the Orders, one of which was withdrawn during the Inquiry and one further objection was received during the Inquiry. The Inspector also recorded at IR 1.8 that there were 71 written representations before the Inquiry, which included 9 statements of support, 16 objections, and 46 other representations. The main grounds of objection are summarised at IR 1.5. There were also 16 objectors’ Alternative proposals submitted.

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, as consolidated in Directive 2011/92/EU, 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 is “minded-to” decide, subject to the outcome of the related matters arising from paragraphs 29 and 31 below, 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 final decision to proceed with the scheme will be given at the appropriate time by public notice as set out in section 105B(7).

Decision on the Published Scheme

9. The Secretaries of State note, 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. The Secretaries of State have made their decision on the matters before this Inquiry having regard to the Framework guidance.

10. The Secretaries of State are satisfied that the Inspector’s conclusions cover all material considerations relevant at the time to the published scheme as a whole, and are “minded-to” accept his recommendations, subject to the comments in the following paragraphs.

Matters arising

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

Procedural Matters

12. The Secretaries of State note the Inspector's handling of the various procedural matters that were the subject of submissions at the Inquiry, including several applications for adjournments, recorded at IR 3.2.2 to IR 3.4.2.

13. The Secretaries of State are satisfied with the way the Inspector dealt with all these matters and agree with his comments and handling on each of them as set out in his report. They are therefore satisfied, as a result, no one was prejudiced or prevented from putting forward their case at the time, and that the Inspector took into account all relevant evidence and came to a reasonable decision in all the circumstances.

Optilan (UK) Limited and Alternative 16

14. The Secretaries of State note the concerns of Optilan (UK) Limited recorded in IR 6.1.1 to IR 6.1.5, together with the Highways Agency's response in IR 8.2.1 to IR 8.2.5. The Secretaries of State further note the Inspector's conclusions on these concerns at IR 9.2.1 to IR 9.2.5 and are currently minded to accept his conclusion in IR 9.2.4, for the reasons given by the Inspector, that the draft CPO should be modified as described in IR 8.1.59 so as to accommodate a retaining wall as proposed by Alternative 16. However, this may be affected by the proposed changes to the scheme referred to in paragraph 26 below.

Baginton Parish Council

15. The Secretaries of State accept the Inspector's conclusions on the Parish Council's concerns recorded at IR 9.2.10 and agree with his reasoning that supports his conclusions. They also concur with his statement that there is no mechanism under the Highways Act 1980 when taking their decision to make any draft Order conditionally in the way suggested, but they are nevertheless satisfied with the conclusions reached on this matter.

National Grid plc

16. The Secretaries of State note from IR 6.6.4 and IR 6.6.5 that National Grid plc has gas pipes and equipment in the area affected by the published scheme and they have been in discussion with the Highways Agency since 2003. The Secretaries of State accept the Inspector's findings at IR 9.2.15 and IR 9.2.16 and are satisfied that if for some reason this matter is still unresolved, the New Roads and Street Works Act 1991 provides a frequently used framework within which agreement can be reached in these

circumstances. The Secretaries of State agree with the Inspector that this matter does not cause any impediment to the published scheme.

Mr E Williams and Mr R Hartry – the owners of Glengary Hotel

17. The Secretaries of State note the concerns of the owners of Glengary Hotel and accept, for the reasons given, the Inspector's conclusions recorded at IR 9.2.34 to IR 9.2.40. Furthermore, they agree with the Inspector's response to the owners' claim about their rights being disregarded under the Human Rights legislation and are satisfied that this matter has been dealt with appropriately in the circumstances. This now falls to be considered when determining compensation, should the draft CPO be made.

Planning Policy and effect of scheme in the Green Belt

18. The Secretaries of State accept the Inspector's conclusions at IR 9.4.1 to IR 9.5.4 and agree, for the reasons he has given, that the published scheme is consistent with prevailing policies at national, regional and local levels. They also accept his conclusion that the published scheme is supported in the development plans for the area, and take the view that it would not be at odds with the guidance in the current National Planning Policy Framework ("the Framework") published on 27 March 2012. They further note the Inspector concluded at IR 9.5.5 that, overall, the published scheme has merit and is expedient as a means to improve the national system of routes for through traffic. The Secretary of State for Transport is satisfied that the published scheme is consistent with the Government's transport policy objectives.

19. The Secretaries of State note at IR 9.3.1 that much of the published scheme falls within the Green Belt, and that Planning Policy Guidance No 2 - *Green Belts* ("PPG2"), extant at the time the published scheme was developed, was taken into consideration. This 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 current Framework. It is also noted that the Inspector recorded at IR 9.3.2 that he took the view that the published scheme would be inappropriate development in the Green Belt and therefore harmful for the reason given in paragraph 3.2 of PPG2. However, the Inspector went on to find that the harm caused by the published scheme to the Green Belt, in addition to that due to its inappropriateness, would be slight, because its intrusion would be at the margins of the Green Belt and the loss of openness would be slight.

20. The Secretaries of State have considered this matter in the light of the current guidance in the Framework and, for the reasons set out by the Inspector in IR 9.3.1 to IR 9.3.6, agree with his overall findings in IR 9.3.7 that the characteristics of the published scheme that weigh in its favour very clearly outweigh those that weigh against it, and that the totality of the circumstances he records, is very special. For this reason, they take the view that the published scheme does not materially compromise the purpose of the Green Belt, and that the potential harm to the Green Belt by reason of its inappropriateness, and any other harm, is clearly outweighed by other considerations. Furthermore, the Secretaries of State have decided that as the benefits of the published scheme, recorded at IR 9.3.6, would clearly outweigh any harm to the Green Belt, this would constitute very special circumstances sufficient to justify the scheme.

Alternatives

21. The Secretaries of State note the 16 Objectors' Alternatives, which are described at IR 8.1.1 to IR 8.1.61, together with the Highways Agency's response, and have also considered the Inspector's conclusions at IR 9.6.1 to IR 9.6.29 on each of them, concluding overall that none of these alternatives, other than Alternative 16, which is dealt with separately at IR 9.2.1 to IR 9.2.4 and by the Secretaries of State at paragraph 14 above. The Secretaries of State are minded to agree with the conclusions of the Inspector on each of the Alternatives and propose to accept, for the reasons given by the Inspector in each case, that none, other than Alternative 16, should be pursued, warrant further investigation or be incorporated into the published scheme.

All other matters

22. The Secretaries of State propose to accept the Inspector's conclusions reached on each of the other matters contained in section 9 of his report, for the reasons he has given.

The Certificate

23. The Secretaries of State note that as explained at IR 4.3.46, land in the Stonebridge Meadows Local Nature Reserve, is needed during the construction period of the published scheme. This falls within an area of designated public open space and it is proposed to take rights for that purpose. The area over which rights are to be acquired is 185 square metres. This would 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 209 square metres (250 square yards). The SofS CLG agrees with the Inspector's conclusion in IR 9.7.18 that as the land affected by the right or rights to be acquired does not exceed 209 square metres in extent, the giving of other land in exchange for the rights is unnecessary.

24. The SofS CLG is therefore minded to agree at the appropriate time that the land can be used during the construction of the published scheme 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 Orders are made.

Post-Inquiry Correspondence

25. Since the close of the Inquiry, a number of letters have been received about the published scheme. 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 either have now been addressed by the Inspector in his report, are such as to not cause them to disagree with the Inspector's conclusions and recommendations, or will be addressed by the publication of the consultation document described in paragraph 27.

Changes to published scheme

26. However, since the close of the local Inquiry in February 2010, a number of modifications are proposed to the published scheme and the economic and environmental evidence published in 2009 has been updated to take account of changes in the Department for Transport's WebTAG guidance. The modifications are summarised briefly below:

Changes to Stivichall Junction

- i) it is proposed to increase the number of lanes from 2 to 3 on the A46 Northbound Slip road approach to Stivichall Junction and widening the exit slip from the roundabout Eastbound onto the A45 Stonebridge; and

Changes to the A45 Stonebridge Highway.

- ii) it is proposed to change the geometry of the slip roads to the west of Tollbar Island by moving these slightly eastwards. This would

also involve narrowing the central reserve median and moving the alignment of the westbound A45 carriageway northwards in the vicinity of the slip roads.

27. Because of these changes, the Secretaries of State have asked the Highways Agency to publish and send out on their behalf, copies of a consultation document to all interested parties as soon as possible from the date of this letter. This will explain these modifications in more detail and include all the necessary supporting documents or plans to enable interested parties to make an informed judgement on these changes. A period of four weeks from receipt of the document will be given to allow representations to be made to the Secretaries of State. The Highways Agency has been asked to collate the responses on their behalf, which should be sent to the address given in the document. These will then be forwarded to the Secretaries of State without comment in a form that can be published with their further decision.

Interim “minded-to” Decision on the Published Scheme

28. The Secretaries of State concur with the Inspector’s conclusions on the published draft Orders and Certificate and, furthermore, are satisfied that funding for this scheme will become available 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 10.4 to make the draft Orders and to publish the Certificate as drafted.

29. However, they propose for the time being to defer from taking a final decision on the draft Orders and on publishing the Certificate, to allow a reasonable period of time to provide interested parties with the opportunity of making representations on the changes to the published scheme explained in more detail in the document to be sent to you shortly by the Highways Agency.

30. For the avoidance of doubt, the Secretaries of State do not propose to invite representations or reopen for debate any matter considered at the 2010 Inquiry that has not subsequently changed, and on which they propose, as indicated above, to accept the Inspector’s conclusions. If you propose to make any representations, these should be confined to those matters contained in the document.

31. Furthermore, it is considered expedient for the purpose of informing all parties of the proposed changes to this scheme since the local Inquiry closed, to publish this letter and the Inspector’s report at this time alongside

the consultation document that you will be shortly receiving. A further letter from the Secretaries of State will be issued in due course after all the responses to the document have been considered conveying their final decision.

AVAILABILITY OF INSPECTOR'S REPORT

32. A copy of this letter and the Inspector's report has been sent to all 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



David Rea
On behalf of the Secretary of State for Transport



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