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Your Ref:

Our Ref: NATTRAN/SE/HAO/268

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Dear Mr Qualtrough

THE SURREY COUNTY COUNCIL (A320 CORRIDOR (OTTERSHAW TO CHERTSEY AND M25 JUNCTION 11) IMPROVEMENT SCHEME) (CLASSIFIED ROAD) (SIDE ROADS) ORDER 2022 ("the SRO")

THE SURREY COUNTY COUNCIL (A320 CORRIDOR (OTTERSHAW TO CHERTSEY AND M25 JUNCTION 11) IMPROVEMENT SCHEME) COMPULSORY PURCHASE ORDER 2022 ("the CPO")

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

1. I refer to your application, submitted on behalf of Surrey County 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. improve highways, stop up highways, construct new highways, stop up private means of access to premises and provide new means of access to premises all on or in the vicinity of the route of the classified road known as the A320 which the Council are proposing to improve between Ottershaw Roundabout, Ottershaw and St Ann's Roundabout, Chertsey and along St Peter's Way, Chertsey; and

ii. purchase compulsorily, on behalf of itself and National Highways Limited, the land and new rights over land for the purposes of the improvement and construction of highways, the provision of new means of access to premises, the diversion of watercourses and carrying out of other works on watercourses, the use of land in connection with these purposes, the improvement or development of frontages to the new and existing highways or of the land adjoining or adjacent thereto, for mitigation and for the provision of an off-street car park.

MODIFICATIONS

3. The Secretary of State will make the modifications to the Orders as detailed and agreed in the Inspector's report at paragraphs 19 and 20. With reference to paragraph 19 it is to be noted that Plots 64, 65, 66, 69 and 71 are in fact increasing in size but this is where rights only are now required in relation to land originally included as title acquisition within Plots 62, 68 and 70. In each case there is an adjacent rights plot with the same interests and the land is, therefore, to be removed from the title plot and incorporated into the adjacent rights plots. The Secretary of State is content that there is no increase in the area of land included in the Order.

4. With reference to paragraphs 79 and 80 of the Inspector's report, Plot 45 will be reduced in size and split into plots 45 and 45a but there is no modification to be made to the land included in Plot 43. The reduction in the size of Plot 43 was a modification previously considered by the Council, but which was then withdrawn. It is also to be noted that the CPO will be further modified to delete the Table 2 entry for Plot 59, to refer to 20 rather than 21 sheets of the Map at Article 2.1, to remove reference to Plot 1 within the description of Plot 2 and to add reference to the new Plot 45a into the description of Plot 43. The Secretary of State will replace the CPO Map Folio with a modified Map Folio and, with reference to paragraph 20 of the Inspector's report, as well as replacing SRO Site Plans 3, 4 and 6 the Secretary of State will also replace Site Plans 7 and 8 which show a reduction in the area of highway to be improved.

5. Further to paragraph 8 of the Inspector's report, the Council has, following the close of the Inquiries, confirmed to the Secretary of State that the Crown interests are to be excluded from the CPO. The Secretary of State will, therefore, modify the CPO Schedule to exclude the Crown interests from Plots 35, 36, 60, 61, 70, 71, 73, 74, 75, 76 and 77. Plots 37, 38 and 39, which also have Crown interests, are to be deleted from the CPO.

6. A modified SRO Schedule, CPO Order and CPO Schedule containing all of the modifications to the Orders can be found as Annex A, B and C respectively to this letter. The Secretary of State is satisfied that the modifications are necessary for clarity, accuracy and to reduce the extent of land subject to compulsory purchase and that they are unlikely to prejudice the interests of anyone. The Secretary of State considers that no further formal consultation is necessary and that the modifications can be made.

CONSIDERATIONS FOR DECISION

7. As 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. The Inquiries were held on 1 November 2022 at Surrey County Council's Principal Office, Woodhatch Place before Inspector P W Clark MA(Oxon) MA(TRP) MRTPI MCMI, an independent Inspector appointed by the Secretary of State. The Inquiries were held open until 10 November 2022 to allow time for requested documentation to be submitted to the Inspector. Fifteen objections were received originally to either or both of the Orders with the objections from National Grid and Affinity Water being withdrawn before the appointment of the Inspector. There were seven objections to the CPO and four to the SRO outstanding at the close of the Inquiries.

8. 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 *The Highways Act 1980* and *Guidance on Compulsory purchase process and The Crichel Down Rules,* in reaching his decision on the Orders.

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; and

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.

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;

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; and

v. the acquiring authority has taken reasonable steps to acquire the interests by agreement.

CONCLUSION

9. The Secretary of State has considered carefully all the objections to, and representations about, the Orders. He notes that the necessary section 6 and section 8 agreement between National Highways Limited and the Council is in place. He also notes that there have been no representations made to the appropriate Minister by statutory undertakers under s16 of the Acquisition of Land Act 1981.

10. In agreement with the Inspector's conclusions at paragraphs 130 and 131 the Secretary of State is satisfied that where a highway is to be stopped up that a reasonably convenient alternative route will be provided and that where a private means of access is to be stopped up a reasonably convenient alternative access is available or will be provided.

11. The Secretary of State has carefully considered whether the purposes for which the CPO is required sufficiently justify interfering with the human rights of those with an interest in the CPO and is satisfied that they do. 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 paragraph 138 and is satisfied that in confirming the CPO a fair balance has been struck between the public interest and interests of those with an interest in the land.

12. The Secretary of State is satisfied that the scheme, for which the Order land is required, now has the benefit of the necessary planning permissions. In the case of both the Junction 10 and the Junction 6 planning application the Secretary of State for Levelling Up, Housing and Communities decided not to call-in the application and planning permission in relation to Junction 10 was granted by the Council on 27 January 2023 and in relation to Junction 6 it was granted on 11 July 2023.

13. The Secretary of State is in agreement with the Inspector's conclusions at paragraph 130 that the extent of land to be acquired has been minimised and he is satisfied that the Council has a clear idea of how it intends to use the land to be acquired. Furthermore, he is in agreement with the Inspector that the Council has taken reasonable steps to acquire the interests by agreement (paragraph 126), that the necessary resources to implement the scheme are likely to be available for delivery of the scheme within a reasonable timescale (paragraphs 136 and 138) and that the scheme is unlikely to be blocked by any physical or legal impediments to implementation (paragraphs 137 and 138).

14. 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 recommendations and has decided to confirm, as modified by him, 'The Surrey County Council (A320 Corridor (Ottershaw to Chertsey and M25 Junction 11) Improvement Scheme) (Classified Road) (Side Roads) Order 2022' and 'The Surrey County Council (A320 Corridor (Ottershaw to Chertsey and M25 Junction 11) Improvement Scheme) Compulsory Purchase Order 2022'.

15. 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.

16. Where not otherwise stated in this letter, the Secretary of State can be taken to agree with the findings, conclusions and recommendations set out in the Inspector's report and the reasons given for the Secretary of State's decision are those given by the Inspector in support of the conclusions and recommendations.

COMPENSATION

17. 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 Upper Tribunal (Lands Chamber) 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

18. A copy of this letter and accompanying annexes, together with a copy of the Inspector's report, has 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.

19. Please arrange for a copy of the Inspector's report and of this letter and accompanying annexes to be made available for inspection at https://a320.commonplace.is/en-GB/proposals/compulsory-purchase-order-and-side-roads-order/step1 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.

RIGHT OF CHALLENGE

20. 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



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