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for Transport

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Your Ref:

Our Ref: NATTRAN/HE/LAO/182

Date: 2 June 2020

Dear Mr Binkuweir

**THE A2 TRUNK ROAD (BEAN AND EBBSFLEET JUNCTION IMPROVEMENTS) (SLIP ROADS AND ROUNDABOUTS) ORDER 2020 (“the Slip Roads Order”)**

**THE HIGHWAYS ENGLAND (A2 TRUNK ROAD BEAN AND EBBSFLEET JUNCTION IMPROVEMENTS) (SIDE ROADS) ORDER 2019 (“the SRO”)**

**THE HIGHWAYS ENGLAND (A2 TRUNK ROAD BEAN AND EBBSFLEET JUNCTION IMPROVEMENTS) COMPULSORY PURCHASE ORDER 2019 (“the CPO”)**

**SECRETARY OF STATE’S DECISION – SLIP ROADS ORDER TO BE MADE AND SRO AND CPO TO BE CONFIRMED WITH MODIFICATIONS**

1. I refer to Highways England’s (“HE”) application for making/confirmation of the above-named Orders. The Secretary of State for Transport (“the Secretary of State”) has decided to make the Slip Roads Order and to confirm the SRO and CPO with modifications and this letter constitutes his decision to that effect.

2. The Slip Roads Order, SRO and CPO will, respectively, authorise HE to:

- (i) construct 5 new slip roads and 1 modified roundabout to connect the A2 Trunk Road to the B255 Bean North and B255 Bean South Roundabouts and Ebbsfleet East Roundabout;
- (ii) 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 A2 Trunk Road, including that part which HE proposes to construct; and
- (iii) purchase compulsorily the land and new rights over land for the purposes of the construction of highways which shall become trunk road in pursuance of the Slip Roads Order, the improvement of the A2 Trunk Road, the construction and improvement of highways and the provision of new means of access to premises in pursuance of the SRO, use by the acquiring authority in connection with the construction and improvement of highways and the provision of private means of access to premises as aforesaid and

mitigating the adverse effect which the existence or use of the highways proposed to be constructed or improved will have on the surroundings thereof.

### MODIFICATIONS

3. The Secretary of State will make the modifications to the Orders as agreed in the Inspector's report at paragraphs 9.238, 9.241, 9.243 and 9.244 and as detailed in the annex to this letter. The annex also includes an additional modification which the Secretary of State will make to the CPO to delete the word approximately from all plot descriptions.

### CONSIDERATIONS FOR DECISION

4. 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. The Inquiries were held on 1-4 and 8-11 October 2019 at Mercure Dartford Brands Hatch Hotel, Longfield, Kent, following a Pre-Inquiries Meeting held at The Eastgate Centre, Northfleet, Gravesend, Kent on 7 August 2019, before Inspector L Coffey BA(Hons) BTP MRTPI, an independent Inspector appointed by the Secretary of State.

5. The Inspector considered all representations 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 Crichel Down Rules* and *The Highways Act 1980*, in reaching his decision on the Orders.

In relation to the Slip Roads Order, namely that:

- i. the purpose for which the Order is promoted is extending, improving or reorganising the Trunk Road system; and
- ii. having taken into consideration the requirements of local and national planning, including agriculture, that the proposal is expedient for the purpose intended.

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.

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.

## CONCLUSION

6. The Secretary of State has considered carefully all the objections to, and representations about, the Orders, including alternative proposals put forward.

7. The Secretary of State notes the Inspector's comments at paragraph 9.235 regarding the loss of three veteran trees. It is the responsibility of HE to consider the justification for the removal of the veteran trees and the compensation strategy. The Secretary of State is, however, content that HE has considered the relevant policies in its justification for their loss and the proposed compensation strategy.

8. The Secretary of State is satisfied that the Slip Roads Order is needed to authorise the construction of the new slip roads and modified roundabout to connect the A2 Trunk Road to the B255 Bean North and B255 Bean South Roundabouts and Ebbsfleet East Roundabout and that this will enable the implementation of the Bean and Ebbsfleet Junction Improvements which are to be undertaken under permitted development rights. In agreement with the Inspector's conclusions at paragraph 9.237, the Secretary of State is satisfied, having taken into consideration local and national planning policy, including agriculture, that the scheme would be in the public interest and that the adverse environmental impact would be proportionate to the benefits of the scheme.

9. The Secretary of State notes that provision is being made for statutory undertakers' apparatus within the proposals and, whilst objections remain outstanding, that liaison between HE and the companies affected is on-going. The Secretary of State is also satisfied that where a highway or a private means of access to premises is to be stopped up that the modified SRO would provide a reasonably convenient alternative route and that either no access is reasonably required or another reasonably convenient means of access is available or will be provided.

10. 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 paragraphs 9.246 and 9.247 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.

11. He notes that no specific planning permission is required for the scheme for which the Order land is required and is satisfied that the Orders have been made in accordance with the relevant sections of the Highways Act 1980. Furthermore, he is satisfied that HE has a clear idea of how the land to be acquired would be used and is content that there is a reasonable expectation that the necessary resources will be available to carry out the proposals within a reasonable timescale. On 19 March 2020 HE advised that terms had been agreed with the Crown Estate for the permanent acquisition of Plots 1/27a, 1/27b, 1/27c, 1/27d and 1/29a. The Secretary of State is, therefore, now satisfied that there are no impediments to the scheme going ahead.

12. The Secretary of State is in agreement with the Inspector's conclusions at paragraphs 9.41, 9.222 and 9.238 that MOD-1 should be accepted and with her conclusions at paragraphs 9.61 and 9.223 that MOD-4 should be accepted and the relevant modifications will be made.

13. The Secretary of State notes the Inspector's comments in relation to MOD-2 at paragraphs 9.50 and 9.223. He agrees that MOD-2 should be accepted and in line with the Inspector's findings strongly encourages the Highway Authority to avoid sites within the Green Belt as alternative construction compounds. The relevant modifications will be made.

14. The Secretary of State notes the Inspector's comments with regard to MOD-3. However, this modification is outside of the scope of the Orders and is, therefore, a matter for Highways England and not for the Secretary of State. The Highway Authority may wish to consider the Inspector's recommendations at paragraph 9.60 that the traffic impacts at the Bean South roundabout be kept under review and that further air quality modelling should be undertaken to assess the effect of this modification on Hope Cottages. Similarly, the Secretary of State notes the Inspector's conclusions that MOD-5 should be accepted but this also is a matter for the Highway Authority and not for the Secretary of State, being outwith the scope of the Orders.

15. At paragraphs 9.146 and 9.230 the Inspector expressed concerns that, on the basis of the submitted evidence, it was unclear whether the scheme would add to the number of properties subject to a Significant Observable Adverse Effect Level ("SOAEL") as defined by Noise Policy Statement for England ("NPSE") and that it, therefore, cannot be concluded whether any further or additional mitigation measures are necessary. The Secretary of State is in agreement with the Inspector in recommending that a further noise assessment based on SOAEL as defined in NPSE and having regard to Environmental Noise Guidelines should be undertaken and any necessary mitigation measures be provided.

16. The Secretary of State accepts the Inspector's conclusions at paragraphs 9.180 and 9.233 in relation to the Bean Residents Association Alternative Scheme. As noted in these paragraphs, the Highway Authority may wish to consider exploring the benefits of widening the A296 outside the scope of the current scheme and Orders.

17. It is noted that, at the Inquiries, HE requested to amend the reasons for acquisition within Appendix A to the Statement of Reasons in respect of Plots 2/6d and 2/7d to include "Also required as a temporary licence working space in connection with the construction of the scheme works". The Statement of Reasons is, however, a non-statutory document which the Secretary of State cannot direct to be amended and in any case as an historic document there would be no value in doing so. Moreover, the Secretary of State is satisfied that any differences between the Statement of Reasons and the Schedule of the CPO do not give rise to any confusion or injustice. The Secretary of State accepts the Inspector's conclusions at paragraph 9.204 and for the reasons stated accepts her conclusions at paragraphs 9.206 and 9.244 that Plot 2/6d should be removed from the CPO. Furthermore, the Secretary of State accepts the Inspector's conclusions at paragraphs 9.218 and 9.241 and will modify the SRO to remove accesses 3 and 4 as shown on the Schedule and Site Plan 2 Inset 3. Additionally, with regard to HE's request for the inclusion of S129 of the Highways Act 1980 in the SRO, the Secretary of State, having considered all matters, is satisfied that the addition of S129 to the SRO is not necessary.

18. 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 making the Slip Roads Order and not confirming the SRO and CPO. Accordingly, the Secretary of State agrees with the Inspector's recommendations and has decided to make 'The A2 Trunk Road (Bean and Ebbsfleet Junction Improvements) (Slip Roads and Roundabouts) Order 2020' and to confirm 'The Highways England (A2 Trunk Road Bean and Ebbsfleet Junction Improvements) (Side Roads) Order 2019' and 'The Highways England (A2 Trunk Road Bean and Ebbsfleet Junction Improvements) Compulsory Purchase Order 2019' as modified by him in accordance with paragraph 3 above.

19. In making the Slip Roads Order and confirming the SRO and CPO the Secretary of State has relied on the information that HE and others have provided, as contained in the Orders and any related plans, diagrams, statements or correspondence, as being factually correct. Making/confirmation is given on this basis.

## COMPENSATION

20. 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

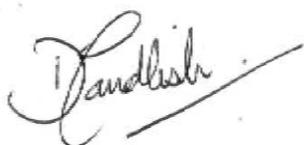
21. A copy of this letter and accompanying annex, together with a copy of the Inspector's report, have been sent to those parties who appeared at the Inquiries, other interested parties and relevant Members of Parliament. Copies will be made available on request to any other persons directly concerned.

22. Please arrange for a copy of the Inspector's report and of this letter, including its annex, to be made available for inspection at [www.highwaysengland.co.uk/projects/a2-bean-and-ebbsfleet-junction-improvements](http://www.highwaysengland.co.uk/projects/a2-bean-and-ebbsfleet-junction-improvements) and <http://programmeofficers.co.uk/a2bean/>. 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

23. Notice is to be published of making/confirmation of the Orders. Any person who wishes to question the validity of the made/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 making/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 made/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 made/confirmed the Orders.

Yours sincerely

A handwritten signature in black ink, appearing to read "Dave Candler", with a long horizontal stroke extending to the right.

### **DAVE CANDLISH**

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