

Local Authority Orders

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Your ref: CON/LGL0024/143/VC/PJW
Our ref: DN5073/55/7/7 & DN5073/60/1/14
Date: 27 November 2008

Sir

HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981
ROAD TRAFFIC REGULATION ACT 1984
THE COUNCIL OF THE COUNTY OF SOMERSET (EAST OF TAUNTON PARK & RIDE A358) (SIDE ROADS AND OTHER WORKS) ORDER 2008 ("the SRO")
THE COUNTY OF SOMERSET (EAST OF TAUNTON PARK & RIDE) COMPULSORY PURCHASE ORDER 2008 ("the CPO")

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to refer to the concurrent Public Local Inquiries held at the Holiday Inn, Deane Gate Avenue, Taunton between 22-24 July 2008 before Mr W S C Wadrup BEng (Hons), CEng, MICE, FIHT an Inspector appointed by the Secretary of State to hear objections to and representations about the above named Orders submitted by Somerset County Council ("the Council").

2. The SRO and CPO if confirmed by the Secretary of State for Transport would, respectively, authorise the Council to:

- (a) 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 A358 Ilminster to Taunton classified road which the Council propose to improve from the western side of its junction with the M5 at Junction 25 (Taunton) to its junction with Bushy Cross Lane; and
- (b) acquire compulsorily land for the improvement of the classified road referred to at (a) above; for the improvement of Ruishton Lane; for the construction of other highways, improvement of existing highways and the provision of new means of access to premises in the vicinity of the route of classified road referred to at (a) above; for mitigating the adverse effects which the existence or use of the highways proposed to be constructed or improved will have on the surroundings thereof; for use by the acquiring authority in connection with the construction and improvement of highways; and for the purposes of providing off street parking places including buildings together with means of entrance to and egress from them.

THE INSPECTOR'S REPORT

3. Three objections were outstanding at the opening of the Inquiries and a further objection was received during the Inquiries. The Inspector has considered all the objections to and representations about the Orders both as made in writing and presented orally at the Inquiries and has submitted his report to the Secretary of State. Two copies of that report are enclosed with this letter. References in this letter to the Inspector's report are indicated by the abbreviation "IR" followed by the paragraph number in the report.

4. The Inspector's report summarises the case for the Council at IR 4.1 – IR 4.50; the case for the objectors can be found at IR 5.1 – IR 5.15. The summary of the written objections can be found at IR 5.16 – IR 5.26. The cases for interested parties are summarised at IR 5.27 – IR 5.30. The Council's responses can be found at IR 6.1 - IR 6.35 whilst the Inspector's conclusions can be found at IR 7.1 – IR 7.51 and his recommendations are at IR 8.1.

OBJECTIONS TO THE PROPOSALS

5. The main grounds for objection to the Council's proposals were that the scheme would not achieve its aims, the land could be put to better alternative use, the consultation process was flawed, the site was not geographically optimum, proposals for cyclists would be dangerous and air pollution would be made worse.

THE INSPECTOR'S CONCLUSIONS AND RECOMMENDATIONS

6. A copy of the Inspector's report can be found at Annex A to this letter.

7. In light of his conclusions the Inspector has recommended at IR 8.1 that the Orders be confirmed as made.

POST INQUIRIES CORRESPONDENCE

8. After the close of the Inquiries a letter dated 7 October 2008 was received from Bond Pearce on behalf of their clients Bovis Homes Limited, the remaining statutory objector to the CPO, withdrawing their objections to the SRO and the CPO.

THE DECISION OF THE SECRETARY OF STATE

9. The Secretary of State has considered carefully all the objections to, and representations about, the Orders. He has considered the Inspector's report and, subject to what is said in paragraphs 10 to 12 below, he accepts his conclusions and recommendations.

10. The Secretary of State notes that the outstanding consent of the Highways Agency as a requirement of the planning permission for the scheme was received by letters dated 21 July 2008 during the Inquiries. These letters were a letter to the Environment Directorate at the Council stating their contentment that condition 2 of the planning approval can be discharged with respect to the Strategic Road Network and a letter to the Project Manager – Major Projects at the Council which stated that they offered no objection to the scheme, as the Agency believes the Council's scheme will not result in a negative impact on the M5 Junction 25 nor require infrastructure alterations to it. However, the Agency were presently unable to reach an agreement on the partial signalisation of the M5 Junction 25. Given the Highways Agency's acceptance of the scheme within the first of the above letters the Inspector accepted that they must have been content with regard to the consequences of additional traffic loading on the motorway slip roads. However, given the possibility of evening peak hour "back up" causing problems at Junction 25 and morning peak hour delays along the A358 and on the M5 southbound off-slip road becoming unacceptably long, the Inspector

considered that both Somerset County Council and the Highways Agency should continue to review the traffic situation at these points. The Secretary of State, like the Inspector, considers that this situation should continue to be reviewed by the Council and the Highways Agency which are the respective responsible highway authorities, but agrees with the Inspector that this continual review of the road network should not lead to his refusal of the Council's Orders.

11. The Secretary of State also notes that although the Inspector was satisfied that there was no convincing evidence that any changes in local traffic patterns in Ruishton Lane and St Michaels Road would constitute a serious local problem, traffic would grow on Ruishton Lane southbound in the morning peak and northbound in the evening and that his recommendation to confirm the Orders was based on the Council's expressed intention being taken as a binding promise from the Council that such conditions would be kept under review and traffic calming measures introduced as appropriate. The Secretary of State like the Inspector considers that this situation should continue to be reviewed by the Council and, whilst ultimately a matter for the Council, he sees no reason why the Council might not honour the commitment it put forward to do so and to take action to implement any traffic calming measures concluded necessary.

12. The Secretary of State notes the Inspector's recommendations with regard to measures for cyclists which would improve conditions for them on Ruishton Lane including the marking of "Keep Clear" on the carriageway of Ruishton Lane, as suggested by Mr Sully, and the addition of suitable signing on Ruishton Lane to warn drivers of cyclists crossing ahead (preferably in both directions) and to warn cyclists to have regard to traffic approaching along the lane. However, the Secretary of State is satisfied that these design features of the scheme are for the Council to consider.

13. The Secretary of State has carefully considered whether the purposes for which the CPO is required sufficiently justify interfering with the human rights of the objectors, owners and lessees and he is satisfied that they do. In particular, he has considered the provisions of Article 1 of The First Protocol to the European Convention on Human Rights. In this respect, the Secretary of State 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.

14. The Secretary of State does not consider that the objections, singly or together, constitute grounds for not proceeding with the proposals. For these reasons he has decided to confirm as made the:-

- (i) The Council of the County of Somerset (East of Taunton Park & Ride A358) (Side Roads and Other Works) Order 2008; and
- (ii) The County of Somerset (East of Taunton Park & Ride) Compulsory Purchase Order 2008,

and this letter constitutes his decision to that effect.

COMPENSATION

15. Details of compensation arising as a consequence of confirmation of a compulsory purchase order are for negotiation with the acquiring authority and not the Secretary of State. Accordingly, owners and occupiers of 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 required for the proposals. 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.

AVAILABILITY OF DOCUMENTS

16. A copy of this letter, together with a copy of the Inspector's report has been sent to those objectors, and their representatives, whose objections were outstanding at the Inquiries and other persons who appeared and made representations at the Inquiries. A copy has also been sent to the Highways Agency. Copies will be made available on request to any other persons directly concerned. Please arrange for a copy of the Inspector's report and of this letter 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

17. 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 the Orders 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 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 the said Schedule 2 or section 23 before publication of the notice that the Secretary of State has confirmed the Orders.

I am Sir
Your obedient Servant

JULIE HUME
Authorised by the Secretary of State
to sign in that behalf