

Local Authority Orders

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Your ref: LS/RM

Our ref: DN5036/55/7/8 & DN5036/60/1/17

Date: 15 October 2008

Sir

HIGHWAYS ACT 1980

ACQUISITION OF LAND ACT 1981

THE CITY OF LIVERPOOL (HALL LANE STRATEGIC GATEWAY SCHEME AND ASSOCIATED IMPROVEMENTS) (SIDE ROADS) ORDER 2005 ("the SRO")

THE CITY OF LIVERPOOL (HALL LANE STRATEGIC GATEWAY SCHEME AND ASSOCIATED IMPROVEMENTS) COMPULSORY PURCHASE ORDER (NO. 2) 2005 ("the CPO")

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to refer to the concurrent re-opened Public Local Inquiries held at the Northern Conference Centre on 24 April 2007 before Mr Martyn Heyes, BSc(ENG), MEng, PhD, CEng, FICE, FIHT, an Inspector appointed by the Secretary of State to hear objections to and representations about the above named Orders submitted by Liverpool City Council ("the Council"). These re-opened Inquiries followed the decision of the Council to proceed with the Orders having at the earlier Inquiries which were held at Local Solutions, Mount Vernon Green, Hall Road, Liverpool on 30 November 2005 and at the Foresight Centre, University of Liverpool, Liverpool on 20 June 2006 informed the Inspector that it did not wish to proceed with the Orders. A copy of the Inspector's report of the earlier 2005/2006 Inquiries proceedings was issued with the Department's letter of 14 February 2007.

2. If confirmed by the Secretary of State for Transport, the SRO would authorise the Council to improve highways; stop up highways; construct new highways; stop up private means of access to premises; and provide new means of access to premises in relation to the classified road known as the A5047 which the Council propose to improve from Adelaide Road to the junction of Mount Vernon Road with Mount Vernon Street, and the classified road known as the A5048 which the Council are proposing to construct and improve from the junction of Kensington, Low Hill, Erskine Street and Prescott Street to a point 235 metres north of the junction of Grove Street with Oxford Street in the City of Liverpool.

3. If confirmed by the Secretary of State for Transport, the CPO would authorise the Council to acquire compulsorily land and rights on land for the purposes of:

- (a) the improvement of the A5047 from Adelaide Road in a westerly direction to the junction of Mount Vernon Road with Mount Vernon Street;
- (b) the construction of a highway from the A5047 Mount Vernon Road in a northerly direction to the junction of Kensington, Low Hill, Erskine Street and Prescott Street;
- (c) the improvement of Minshull Street;
- (d) the construction of a highway from a point 25 metres north of the northern boundary of Paddington to a point 240 metres north of the junction of Grove Street with Oxford Street;
- (e) the improvement of Crown Street and Grove Street;
- (f) the construction of other highways and improvement of existing highways and the provision of new means of access to premises in the vicinity of the routes of the above mentioned highways in pursuance of The City of Liverpool (Hall Lane Strategic Gateway Scheme and Associated Improvements) (Side Roads) Order 2005;
- (g) the use by the acquiring authority in connection with the construction and improvement of highways and the provision of new means of access to premises as aforesaid;
- (h) the improvement or development of frontages to the above mentioned new and existing highways or of the land adjoining or adjacent thereto;
- (i) mitigating the adverse effect which the existence or use of the highways proposed to be constructed or improved will have on the surroundings thereof; and
- (j) the giving in exchange for part of the land in the Order which is public open space.

THE RE-OPENED INQUIRIES REPORT

4. At the re-opening of the Inquiries there were 3 objections outstanding; however these objections were withdrawn prior to the close of the Inquiries. Two copies of the Inspector's report, into the re-opened Inquiries, are enclosed with this letter. References in this letter to the re-opened Inquiries report are indicated by the abbreviation "RIR" followed by the paragraph number in this report.

5. The Inspector outlines the case for the Council at RIR 4.1 to RIR 4.10. The Inspector's conclusions can be found at RIR 5.1 to RIR 5.6 with his recommendations at RIR 6.1.

THE INSPECTOR'S CONCLUSIONS AND RECOMMENDATIONS

6. In light of his conclusions the Inspector has recommended that the Orders be confirmed, as amended, subject to the issue of the Section 19 'exchange land' certificate. The amendments as proposed by the Council and as recommended by the Inspector are to Schedule 1, Table 1, of the CPO with respect to Plots 21 D-G (RIR 4.10).

MODIFICATIONS

7. The Inspector's document Doc I 22 which identified minor amendments to Schedule 1 Plots 21 D – G has not been produced with his report. As these modifications are described as minor, the Secretary of State is satisfied that these are not critical and are of a type unnecessary for him to make to the CPO and have therefore not been made.

8. Following negotiations it had been conducting with the University of Liverpool regarding the second area of open space included in the CPO not subject of a Section 19 application (RIR 4.9), the Council in letters dated 3 June 2008 and an e-mail dated 4 July 2008 requested the following additional modifications to be made to the CPO: the deletion of Plot 5 as it is no longer required; that each of Plots 6K, 30A and 30C be amended to acquisition of a right rather than freehold; that Plots 30J, 30K, 30L, 30M and 30R – open space be removed; that Plots 30B and 30D be reduced in area; that Plots 30E, 30F and 30P be deleted; and that Plot 40C be deleted as the Council have now acquired title to it. These modifications can be found at Annex A to this letter.

THE DECISION OF THE SECRETARY OF STATE

9. The Secretary of State has considered carefully all the representations about the now unopposed Orders. He has considered the Inspector's report of the re-opened Inquiries and accepts his conclusions and, subject only to the making of the modifications to the CPO as referred to in paragraph 8 above, his recommendations.

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 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 owners and lessees.

11. The Secretary of State for Communities and Local Government has now issued the Open Space Section 19 Certificate in respect of Plot 62 (RIR 4.8). In view of the modifications to the CPO as detailed in paragraph 8 above, a Section 19 Certificate requirement no longer arises in respect of Plots 30K/30J (RIR 4.9).

12. For these reasons the Secretary of State for Transport has decided to confirm as modified by him:

- (i) The City of Liverpool (Hall Lane Strategic Gateway Scheme and Associated Improvements) (Side Roads) Order 2005; and
- (ii) The City of Liverpool (Hall Lane Strategic Gateway Scheme and Associated Improvements) Compulsory Purchase Order (No. 2) 2005,

and this letter constitutes his decision to that effect.

COMPENSATION

13. 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

14. A copy of this letter, together with a copy of the Inspector's report of the reopened Inquiries has been sent to those objectors, and their representatives whose objections were outstanding at the re-opening of the Inquiries. Copies will be made available on request to any other persons directly concerned. Please arrange for a copy of the Inspector's report of the reopened Inquiries 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.

RIGHT OF CHALLENGE

15. 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

MODIFICATIONS

THE CITY OF LIVERPOOL (HALL LANE STRATEGIC GATEWAY SCHEME AND ASSOCIATED IMPROVEMENTS) (SIDE ROADS) ORDER 2005

“classified road” In Article 3, paragraph 3(b)(v) is deleted.

THE SCHEDULE

“Highways to be Improved” Grove Street is added.

“Highways to be Stopped up”:
The distance of 1 metre at the 8th description (reference Y8) is amended to read 5 metres.

The distance of 25 metres of the 12th description (reference Y12) is amended to read 29 metres.

The distance of 40 metres of the 13th description (reference Y13) is amended to read 48 metres.

THE CITY OF LIVERPOOL (HALL LANE STRATEGIC GATEWAY SCHEME AND ASSOCIATED IMPROVEMENTS) COMPULSORY PURCHASE ORDER (NO 2) 2005

Article 2(1) In between the words “coloured pink” and “on the map” the wording “or pink cross hatched black” is inserted.

Article 2(1) In between the words “coloured blue” and “on the said map” the wording “or pink diagonally hatched black” is inserted.

Article 5 Is deleted from the Order.

Plot 5 Is deleted from Table 1 and 2, and from the Order Map.

Plot 6K Column (2) “The right to enter upon” is inserted before “92 square metres”, “All interests in” is deleted and replaced with the word “of” and “except interests owned by the acquiring authority” is deleted and replaced with “for the purposes of constructing the highway”.

Plot 30A Column (2) “The right to enter upon” is inserted before “351 square metres”, after “351 square metres” the word “of” is inserted and “for the purposes of constructing the highway” is inserted after Minshull Street.

Plot 30B Column (2)	The plot size is reduced from “1217 square metres” to “795 square metres” and the plot is reduced accordingly on the Order map.
Plot 30C Column (2)	“The right to enter upon” is inserted before “81 square metres”, after “81 square metres” the word “of” is inserted and “for the purposes of constructing the highway” is inserted after Minshull Street.
Plot 30D Column (2)	The plot size is reduced from “336 square metres” to “149 square metres” and the plot is reduced accordingly on the Order map.
Plots 30E, 30F, 30L, 30M, 30P and 40C	Are deleted from Table 1 and 2 of the schedule and from the Order map.
Plot 30K	Is deleted from Table 1 and 2 of the schedule; the largest part of the plot being deleted entirely from the Order and the remaining part of the plot being added to modified Plot 30J, and the respective areas are shown deleted from, or added to Plot 30J, on the Order map.
Plot 30J	The plot size is reduced from “3374 square metres” to “1286 square metres” and the plot description is amended to “Half widths of public roads and footways known as Crown Street and Paddington”.
Plot 30R	The plot size is reduced from “645 square metres” to “389 square metres” and the plot description amended to “Half width of adopted highway and footway known as Smithdown Lane” and the plot is reduced accordingly on the Order map.
Plot 40B	The plot size is reduced from “392 square metres” to “321 square metres” and the plot is reduced accordingly on the Order map.
Plot 60 Column (3) - Tenants or reputed tenants (other than lessees)	“(as at plot 3)” is replaced by “(as at plot 6)”.
Plot 62 Column (3) – Owners or reputed owners	“(as at plot 3)” is replaced by “(as at plot 6)”.
Under “Number on map” of the special category land listed at the end of the Schedule	Plots 30J, 30K, 30L, 30M, 30R and 40C are deleted.