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Your ref: TSS/04600
Our ref: DN5079/55/7/07 & DN5079/60/1/13
Date: 1 July 2009

Sir

HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981
THE WILTSHIRE COUNTY COUNCIL (A350 WESTBURY BYPASS CLASSIFIED ROAD) (SIDE ROADS AND OTHER WORKS) ORDER 2007 - ("the SRO")
THE WILTSHIRE COUNTY COUNCIL (A350 WESTBURY BYPASS) COMPULSORY PURCHASE ORDER 2007 - ("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 Laverton, Westbury between 17 June – 24 July; 4 September and 10 – 11 September 2008 before Mr Alan Langton DipTP CEng MRTPI MICE MIHT an Inspector appointed by the Secretary of State, and assisted by Mr John Yellowley BSc CEng MICE FIHT to hear objections to and representations about the above named Orders submitted by Wiltshire County Council ("the Council"). Wiltshire Council, on 1 April 2009, formally replaced Wiltshire County Council (and the District Councils of Kennet, North Wiltshire, Salisbury and West Wiltshire) as the new unitary authority for Wiltshire.

2. The Inquiries also considered an application by Wiltshire County Council referred to, and called in by, the Secretary of State for Communities and Local Government under Section 77 of the Town and Country Planning Act 1990 on 11 July 2007, for planning permission for the construction of a new single carriageway road with a climbing lane over part of the route, roundabout junctions, associated infrastructure and works.

PROCEDURAL MATTERS

3. This letter deals only with the Secretary of State's decision on the SRO and the CPO. The decision of the Secretary of State for Communities and Local Government on the planning application is issued by separate letter today.

THE ORDERS

4. If confirmed by the Secretary of State the SRO would authorise the Council to improve lengths of highway, stop up lengths of highway, construct new highways, stop up private means of access to premises and provide new means of access to premises, on or in the vicinity of the classified road which the Council propose to construct, as its proposed Westbury Bypass, from a point on the existing A350 530 metres to the south of its junction with Wellhead Drove and proceeding in a north-easterly then north and north-westerly direction to join the existing A350 210 metres north of the junction with Coach Road, and a further length of new road – The Glenmore Link – which proceeds to an improved length of B3097 Hawkeridge Road 300 metres south of its junction with Link Road in District of West Wiltshire.

5. If confirmed by the Secretary of State, the CPO would authorise the Council to purchase compulsorily the land and rights over land for the purposes of:

(a) the construction of a highway to bypass the town of Westbury between the existing A350 Warminster Road south of Madbrook Farm, Westbury and a new roundabout to be constructed on the A350 Westbury Road to the north of Westbury, south of its junction with Park Lane and the construction of a highway from the said new roundabout to a junction with the B3097 Hawkeridge Road, south of Link Road in the Parish of Heywood and the construction and improvement of a highway between B3098 Bratton Road adjacent to Westbury Cemetery, Westbury and B3098 Bratton Road east of Fairview Farm, Westbury in the District of West Wiltshire in the County of Wiltshire;

(b) the improvement of the following highways: A350 in the said Parish of Westbury south of Madbrook Farm, Westbury; B3098 Bratton Road in the said Parish of Westbury; A350 Westbury Road in the said Parish of Westbury to the south of Park Lane; and the B3097 Hawkeridge Road in the Parish of Heywood and the construction of other highways in pursuance of the Wiltshire County Council (A350 Westbury Bypass Classified Road) (Side Roads and Other Works) Order 2007;

(c) the provision of new means of access to premises in pursuance of the Wiltshire County Council (A350 Westbury Bypass Classified Road) (Side Roads and Other Works) Order 2007;

(d) the carrying out of works on watercourses in connection with the construction and improvement of highways as aforesaid;

(e) 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; and

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

THE INSPECTOR'S REPORT

6. The Inspector reported that at the end of the objection period there were 3 statutory and 24 non-statutory objections to the SRO and 7 statutory and 74 non-statutory objections to the CPO. The Inspector has considered all the objections to and representations about the Orders both as made in writing and as 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.

7. The Inspector's report summarises the case for the Council at IR 2.1 – IR 2.407. The case for the supporters of the Council's scheme is summarised at IR 3.1 – IR 3.98. The case for the objectors is summarised at IR 5.1 – IR 5.344 and IR 6.1 – IR 6.133. The cases with respect to the Orders are at IR 7.1 – IR 7.29 and the Inspector's conclusions are at IR 8.1 to IR 8.256.

OBJECTIONS TO THE PROPOSALS

8. The main grounds of objection to the Council's Bypass proposals were concerned with route choice, access to the West Wiltshire Trading Estate, amenity, the environment, wildlife, and lack of relief to villages around Westbury. Other concerns were in relation to water supply, pollution, traffic noise, lack of consultation, cost, and tourism, Government policies, SSSIs, drainage, blight, funding and businesses. The SRO and CPO also raised objections with regard to the Council's proposals for access to properties, proposed plans for dealing with Footpaths and other rights of way, spoil disposal areas, inadequate facilities in the proposals for equestrians, verge widths, regrading of land and impact upon properties.

SUPPORT FOR THE PROPOSALS

9. The Inspector records that the Council's Westbury Bypass scheme was supported by Westbury Town Council, Westbury Bypass Now!, Gwyn White, United to Protect the Rural Area West of Westbury, West Wiltshire Economic Partnership and Wessex Association of Chambers of Commerce, Richard Gregory, Jennifer Anne Ashen, Keith Miller, Douglas Firmager, Cathy Bugler, Robert Murray, Martin Phippard and Dorian Jones.

THE INSPECTOR'S CONCLUSIONS

10. A full copy of the Inspector's Conclusions can be found at Annex A to this letter.

11. In the light of his conclusions the Inspector has recommended at IR 8.176 that the planning permission be refused and, if that recommendation is accepted by the Secretary of State for Communities and Local Government, then the SRO could not be justified (IR 8.255) and that the statutory tests under the Acquisition of Land Act 1981 could not be met in relation to the CPO (IR 8.256), and that both Orders should be not confirmed (Summary of Recommendations – IR Page 2).

POST INQUIRIES CORRESPONDENCE

12. Following the close of the Inquiries, correspondence was received from Janet Poole (dated 9 February 2009); a report which had been submitted to the Inquiries Programme Officer, was received from Mr John Jackson; and a copy of a letter addressed to Mr P Kinnersly (dated 7 October 2008) from the Department for Transport.

13. The Secretary of State has noted this post Inquiries correspondence but it does not alter his decision to accept the Inspector's conclusions and recommendation on the SRO and the CPO.

THE DECISION OF THE SECRETARY OF STATE

14. By letter of today's date the Secretary of State for Communities and Local Government has refused to grant planning permission for the Council's Westbury Bypass proposals. As there is no planning permission granted, there is no basis for the Secretary of State to consider confirming the SRO to give authority to effect alterations to the highways and private means of access network to accommodate the Council's Westbury Bypass proposals. He does, however, accept that had the position been otherwise, and planning permission granted, the Council would have needed to take steps to obtain consent to add further private means of access to premises to be stopped up to the SRO (IR 8.253), or a further SRO to achieve those changes. Furthermore, in the absence of planning permission the statutory tests for confirmation of the CPO are not met. Accordingly, the Secretary of State for Transport has decided to accept the Inspector's recommendations and to not confirm: -

- (i) The Wiltshire County Council (A350 Westbury Bypass Classified Road) (Side Roads and Other Works) Order 2007; and
- (ii) The Wiltshire County Council (A350 Westbury Bypass) Compulsory Purchase Order 2007,

and this letter constitutes his decision to that effect. The Sealed Orders and Maps which were enclosed with the Council's applications are returned herewith.

COSTS

15. In view of the decision on the Orders, and the terms of Communities and Local Government Circular 03/09 (Part E) on the Award of Costs incurred in Appeals and Other Planning Proceedings should those statutory objectors who appeared or were represented at the Inquiries be unsuccessful in negotiating a settlement of their Inquiries costs with the Council, the Secretary of State would, on receipt of an application from them, be prepared to consider making an award in respect of their proper costs of the Inquiries, such costs to be paid by the Council, their objection having been successful.

AVAILABILITY OF DOCUMENTS

16. A copy of this letter, together with a copy of the Inspector's conclusions has been sent to those objectors, their representatives and to the other persons who appeared and made representations at the Inquiries and also to the supporters and outstanding objectors. 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.

I am Sir

Your obedient Servant

FIONA J GOUGH

Authorised by the Secretary of State
to sign in that behalf