



Department for Transport

Helen Sewter
Gloucestershire County Council
Legal Services, Shire Hall
Westgate Street
Gloucester
GL1 2TG

National Transport Casework Team
Tyneside House
Skinnerburn Road
Newcastle Business Park
Newcastle upon Tyne
NE4 7AR
www.gov.uk

By email only

Your Ref: HS/62933

Our Ref: NATTRAN/SW/HAO/217

Date: 26 March 2021

Email: nationalcasework@dft.gov.uk

Dear Ms Sewter

THE GLOUCESTERSHIRE COUNTY COUNCIL GLOUCESTER SOUTH WEST BYPASS (LLANTHONY ROAD SECTION) COMPULSORY PURCHASE ORDER 2019

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

1. I refer to your application, submitted on behalf of the Gloucestershire County Council ("the Council"), for confirmation of the above-named Compulsory Purchase Order ("the Order"). The Secretary of State for Transport ("the Secretary of State") has decided to confirm the Order, as modified by him, and this letter constitutes his decision to that effect.

2. The confirmed Order will authorise the Council to compulsorily purchase land for the purposes of the improvement of the north eastern section of the A430 Llanthony Road from its junction with St Ann Way to Castlemeads Way, Gloucester and mitigating any adverse effect which the existence or use of the improved A430 Llanthony Road has or will have on its surroundings.

CONSIDERATIONS FOR DECISION

3. As the Order received objections, it was decided that a Public Inquiry should be held for the purposes of hearing those objections. Such an Inquiry was held virtually on 24 November 2020 before Inspector John Wilde CEng MICE, an independent Inspector appointed by the Secretary of State. The Inspector considered all representations and objections about the Order and subsequently submitted a report to the Secretary of State, a copy of which is enclosed with this letter.

4. 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 Order. 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 the confirmation of the Order, and to implement the scheme; and
- (iv) there should be a reasonable prospect of the scheme being implemented and it should be unlikely to be blocked by any impediment.

CONCLUSION

5. The Secretary of State has considered carefully the objections to, and representations about, the Order. He has also given thorough consideration to the provision 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 conclusion at paragraph 51 of his report and considers that the benefits of the Compulsory Purchase Order sufficiently justify the interference with the human rights of those with an interest in the land affected.

6. The Secretary of State is satisfied that the scheme, for which the Order land is required, has the benefit of a valid planning permission and that the Orders have been made in accordance with the relevant sections of the Highways Act 1980 namely, sections 239 and 246.

7. Furthermore, he is satisfied that there are clear descriptions of why the Order land is required and how it will be used. No land and rights beyond those necessary to implement the scheme have been included. The Council has confirmed that funding is available for the delivery of the scheme and the Secretary of State is satisfied that there are no anticipated impediments to the scheme going ahead. This is further supported by the Inspector's findings at paragraphs 29 and 30 of his report.

8. Having considered all aspects of the scheme, the Secretary of State is satisfied that there are no compelling reasons which would justify not confirming the Order. The Secretary of State agrees with the Inspector's recommendations and has decided to confirm, as modified by him, 'The Gloucestershire County Council Gloucester South West Bypass (Llanthony Road Section) Compulsory Purchase Order 2019'.

9. In confirming the Order, the Secretary of State has relied on the information that the Council and others have provided, as contained in the Order and any related plans, diagrams, statements or correspondence, as being factually correct. Confirmation is given on this basis.

MODIFICATIONS

10. The Secretary of State will make the modifications to the Compulsory Purchase Order (Annex A accompanying this letter) as agreed with the Council prior to the Inquiry (and as referenced at paragraph 10 of the Inspector's report). He does not consider that any of the modifications would materially alter anyone's understanding of the Order and is satisfied the modifications do not result in the acquisition of any additional land.

AVAILABILITY OF DOCUMENTS

11. A copy of this letter, together with a copy of the Inspector's report, has been sent to other parties who appeared at the Inquiry, outstanding objectors, other potential interested parties and relevant Members of Parliament. Additional copies are available upon request to this office.

ACTIONS REQUIRED

12. 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.

13. Your attention is also drawn to the provisions of Section 15 of the Acquisition of Land Act 1981, as amended by the Planning and Compulsory Purchase Act 2004, regarding publication and service of notices for the confirmed Compulsory Purchase Order. I should be grateful if you would, in due course, send us a copy of the page from the local newspaper or online page containing the notice of confirmation of the Order. The page should identify the name of the newspaper and the date of publication.

14. One copy of the Order, as confirmed, should also be sent to The Coal Authority at 200 Lichfield Lane, Mansfield, Nottingham NG18 4RG or at thecoalauthority@coal.gov.uk.

RIGHT OF CHALLENGE

15. Any person who wishes to question the validity of the confirmed Order, 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 Order has 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 Order.

COMPENSATION

16. Details of compensation arising as a consequence of confirmation of a Compulsory Purchase Order 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

Compulsory Purchase Order 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.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Dave Candlish".

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