



Department
for Transport

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Your Ref:

Our Ref: NATTRAN/SW/HAO/278

Date: 29 January 2024

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Dear Mr Whittle

THE NORTH SOMERSET COUNCIL (BANWELL BYPASS AND SOUTHERN LINK CLASSIFIED ROAD) (SIDE ROADS) ORDER 2022 (“the SRO”)

THE NORTH SOMERSET COUNCIL (BANWELL BYPASS AND SOUTHERN LINK) COMPULSORY PURCHASE ORDER 2022 (“the CPO”)

THE NORTH SOMERSET COUNCIL (BANWELL BYPASS AND SOUTHERN LINK) COMPULSORY PURCHASE ORDER (NO.2) 2023 (“the CPO (No.2)”)

SECRETARY OF STATE’S DECISION – ORDERS TO BE CONFIRMED WITH MODIFICATIONS

1. I refer to your application, submitted on behalf of North Somerset Council (“the Council”), for confirmation of the above-named Orders. The Secretary of State for Transport (“the Secretary of State”) has decided to confirm, as modified by him, the Orders and this letter constitutes his decision to that effect.
2. The confirmed SRO, CPO and CPO (No.2) will, respectively, authorise the Council to:
 - i. 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 classified roads which the Council are proposing to construct being the A371 and A368 known as the “Banwell Bypass” and the A368 and A371 known as the “Southern Link”;
 - ii. purchase compulsorily the land and new rights over land for the purposes of the construction of the “Banwell Bypass” and the “Southern Link”, the construction of other highways, improvement of existing highways and provision of new means of access to premises in pursuance of the SRO, use in connection with the construction and improvement of highways and the provision of new means of access to premises and for mitigation including the provision of replacement land to mitigate the impact of the “Banwell Bypass” on Banwell Football Club; and

- iii. purchase compulsorily the land and new rights over land for the purposes of the construction of the “Banwell Bypass” and the “Southern Link”, the construction of other highways, improvement of existing highways and provision of new means of access to premises in pursuance of the SRO, use in connection with the construction and improvement of highways and the provision of new means of access to premises and for mitigation.

MODIFICATIONS

3. Subject to paragraph 4 below, the Secretary of State will make the modifications to the Orders as agreed in the Inspector’s report at paragraphs 12.10, 12.11 and 12.12 and as shown in Inquiry Documents INQ-09.03, INQ-08.03 and INQ-08.04 which can be found as Annex A, B and C respectively to this letter. In agreement with the Inspector at paragraph 11.5, the Secretary of State is satisfied that the modifications to the SRO are necessary to address specific objections, for clarity and for accuracy and that they can be made in accordance with paragraph 8 of Schedule 1 to the Highways Act 1980. With regard to the CPOs, in agreement with the Inspector at paragraph 9.20, the Secretary of State is content that there is no increase in the area of land included in the Orders. The Secretary of State considers that no further formal consultation is necessary, that the modifications are unlikely to prejudice the interests of anyone and that they can be made.

4. With regards to the description of the highway to be stopped up referenced 2/S1 in Schedule 2 of the SRO, it is to be noted that the Secretary of State will modify the measurements of 109 metres and 34 metres given in the Schedule to 207 metres and 304 metres respectively as agreed with the Council prior to the Inquiries. It is also to be noted that the CPO will be further modified to delete Plot 2/2b, Plot 3/3 and Plot 3/8h from Table 2, the plots having been deleted from Table 1 of the CPO. Furthermore, with reference to the modification to be made to the description in Plot 3/6am the Secretary of State will modify the wording to read ‘part of half width of A368 and half width of Eastermead Lane’ as previously agreed with the Council. The Secretary of State will replace SRO Site Plans 1-4, CPO Maps 1-4 and CPO (No.2) Maps 1-3.

CONSIDERATIONS FOR DECISION

5. 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. A virtual Pre-Inquiries Meeting was held on 23 May 2023 and a virtual Case Management Conference was held on 23 June 2023. The Inquiries opened on 11 July 2023 at the Grand Pier, Weston-super-Mare before Inspector J Burston BSc(Hons) MA MRTPI AIPROW, an independent Inspector appointed by the Secretary of State. The Inquiries sat for 7 days and closed on 27 July 2023. The Inspector reports that a total of 39 objections remained outstanding at the close of the Inquiries. Following the close of the Inquiries objections from R Warburton (OBJ-36), National Grid Electricity Distribution (OBJ-45 and OBJ-56) and Bristol Water (OBJ-46) were withdrawn. With reference to paragraphs 1.4 and 9.123 of the Inspector’s report, National Grid Electricity Distribution have also withdrawn the representations made pursuant to Section 16 of the Acquisition of Land Act 1981 to the Department for Energy Security and Net Zero.

6. The Inspector considered all representations and objections 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 *The Highways Act 1980* and *Guidance on Compulsory purchase process and The Crichel Down Rules*, in reaching his decision on the Orders.

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; and
- 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.

In relation to the CPOs, 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;
- 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; and
- v. the acquiring authority has taken reasonable steps to acquire the interests by agreement.

CONCLUSION

7. The Secretary of State has considered carefully all the objections to, and representations about, the Orders including alternative proposals put forward. The Secretary of State is in agreement with the Inspector's conclusions at paragraph 9.71 that the alternative routes do not provide the advantages that would merit their further investigation and that they do not detract from the strength of the public interest case for the proposed scheme.

8. The Secretary of State notes that there are now no outstanding objections from statutory undertakers and, in agreement with the Inspector's conclusions at paragraph 11.6, 12.5 and 12.6 is satisfied that where a highway is to be stopped up a reasonably convenient alternative route is available or will be provided. He is also satisfied that where a private means of access is to be stopped up either no access to the premises is reasonably required or a reasonably convenient alternative access will be provided, as described in the schedules and plans of the SRO.

9. The Secretary of State has carefully considered whether the purposes for which the CPOs are required sufficiently justify interfering with the human rights of those with an interest in the CPOs 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 10.1-10.11 and 12.3 and is satisfied that in confirming the CPOs a fair balance has been struck between the public interest and interests of those with an interest in the land.

10. The Secretary of State is satisfied that the scheme, for which the Order land is required, has the benefit of the necessary planning permissions and, in agreement with the Inspector's conclusions at paragraphs 9.20 and 12.1 that no more land or rights are proposed to be acquired than are necessary to implement the scheme and the Council has a clear idea of how the land to be acquired will be used. Furthermore, he is in agreement with the Inspector that the Council has taken reasonable steps to acquire the interests by agreement (paragraphs 9.21-9.23), that the necessary resources to implement the scheme are likely to be available for delivery of the scheme within a reasonable timescale (paragraphs 9.24 and 12.2) and that the scheme is unlikely to be blocked by any physical or legal impediments to implementation (paragraphs 9.27 and 12.2).

11. 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 confirming the Orders. Accordingly, the Secretary of State agrees with the Inspector's recommendations and has decided to confirm, as modified by him, 'The North Somerset Council (Banwell Bypass and Southern Link Classified Road) (Side Roads) Order 2022', 'The North Somerset Council (Banwell Bypass and Southern Link) Compulsory Purchase Order 2022' and 'The North Somerset Council (Banwell Bypass and Southern Link) Compulsory Purchase Order (No.2) 2023'.

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

13. Where not otherwise stated in this letter, the Secretary of State can be taken to agree with the findings, conclusions and recommendations set out in the Inspector's report and the reasons given for the Secretary of State's decision are those given by the Inspector in support of the conclusions and recommendations.

COMPENSATION

14. 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 CPOs 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

15. A copy of this letter and accompanying annexes, 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.

16. Please arrange for a copy of the Inspector's report and of this letter and accompanying annexes to be made available for inspection at <http://banwellbypasscpo.co.uk> 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 the address shown on this letter 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

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 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 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 Orders.

Yours sincerely



TIM BRIMELOW

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