



Department  
for Transport

Ms L Heron  
Hampshire Legal Services  
Hampshire County Council  
The Castle  
Winchester  
SO23 8UJ

**National Transport Casework Team**  
Tyneside House  
Skinnerburn Road  
Newcastle Business Park  
Newcastle upon Tyne  
NE4 7AR

Direct line: 0207 944 4115

Email: dave.candlish@dft.gov.uk

Your Ref:

Our Ref: NATTRAN/SE/LAO/151

Date: 20 May 2019

Dear Ms Heron

**THE HAMPSHIRE COUNTY COUNCIL (B3334 STUBBINGTON BYPASS CLASSIFIED ROAD) (SIDE ROADS) ORDER 2018 (“the SRO”)**

**THE HAMPSHIRE COUNTY COUNCIL (B3334 STUBBINGTON BYPASS) COMPULSORY PURCHASE ORDER 2018 (“the CPO”)**

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

1. I refer to your application, submitted on behalf of Hampshire County Council (“the Council”), for confirmation of the above named SRO and CPO. 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 and CPO will, respectively, authorise the Council to:

- (i)
  - (a) improve highways;
  - (b) stop up highways;
  - (c) stop up private means of access to premises; and
  - (d) provide new means of access to premises,

all in the vicinity of the route of the classified road known as B3334 Stubbington Bypass (Classified Road) which the Council are proposing to construct/improve between a point adjacent to ‘Westlea’, 302, Titchfield Road to a point 220m east of the junction of Gosport Road and Marks Road; and

- (ii) purchase compulsorily the land to enable the construction of a single carriageway bypass some 3.5km in length around the northern and eastern sides of Stubbington together with 1km of improvements from its northern end stretching to the Titchfield Gyratory and 700m of improvements from its southern end stretching to the Peel Common roundabout along with associated purposes.

## MODIFICATIONS

3. The Secretary of State will make the modifications to the Orders as agreed in the Inspector's report at paragraphs 131 and 132 and as detailed in Inquiry Document INQ4 which can be found as an annex to this letter. As agreed with the Council prior to the Inquiries the Secretary of State will also modify SRO Plan Drawing No. EC/CJ008773/03/195 Rev C to insert the omitted 't' in the road name 'B3334 Titchfield Road'.

## CONSIDERATIONS FOR DECISION

4. 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. The Inquiries were held on 26 and 27 November 2018 at The Solent Hotel & Spa before Inspector B M Campbell BA(Hons) MRTPI, an independent Inspector appointed by the Secretary of State. At the close of the Inquiries one registered objector remained. A number of interested persons expressed their views during the course of the proceedings.

5. 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 *Guidance on Compulsory purchase process and The Criche Down Rules* and *The Highways Act 1980*, in reaching his decision on the Orders.

In relation to the CPO, 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; and
- iv) there should be a reasonable prospect of the scheme going ahead and it should be unlikely to be blocked by any impediment.

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;
- 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; and

- iii) provision will be made for the preservation of any rights of statutory undertakers in respect of their apparatus.

## CONCLUSION

6. The Secretary of State has considered carefully all the objections to, and representations about, the Orders. 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 116, 117 and 128 and 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.

7. He 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, 240, 246 and 260 for the Compulsory Purchase Order and sections 14 and 125 for the Side Roads Order.

8. Furthermore, he is satisfied that the Council has a clear idea of how it intends to use each parcel of land proposed to be acquired and that the scheme cannot be implemented without the acquisition of all the necessary land interests. The Secretary of State is content that the necessary resources are likely to be available for delivery of the scheme within a reasonable timescale and is satisfied that no physical or legal impediments to the implementation of the scheme have been identified.

9. The Secretary of State notes that there are no outstanding objections from statutory undertakers. Noting the Inspector's comments at paragraphs 123 to 127 he is satisfied that where highways are to be stopped up a reasonably convenient alternative route is available or will be provided. Also, where a private means of access to premises is to be stopped up another reasonably convenient means of access is to be made available where required.

10. 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 Hampshire County Council (B3334 Stubbington Bypass Classified Road) (Side Roads) Order 2018' and 'The Hampshire County Council (B3334 Stubbington Bypass) Compulsory Purchase Order 2018'

11. 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.

## COMPENSATION

12. 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 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. 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

13. A copy of this letter and accompanying annex, 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.

14. Please arrange for a copy of the Inspector's report and of this letter, including its annex, 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

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 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,

A handwritten signature in black ink, appearing to read 'Dave Candlish', with a long horizontal stroke extending to the right.

**DAVE CANDLISH**

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