



Department
for Transport

Mr David Mathias
Weightmans LLP
No 1 Spinningfields
Hardman Square
Manchester
M3 3EB

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: DMH LC 200061/4

Our Ref: NATTRAN/WM/LAO/177 & 178

Date: 16 July 2019

Dear Sir

THE HIGHWAYS ENGLAND COMPANY LIMITED (M6 JUNCTION 10) (SLIP ROADS, SPECIAL ROADS) SCHEME 2018 (“the Special Roads Scheme”)

THE HIGHWAYS ENGLAND COMPANY LIMITED (M6 JUNCTION 10) (SLIP ROADS, SPECIAL ROADS) (SIDE ROADS) ORDER 2018 (“the Side Roads Order”)

THE HIGHWAYS ENGLAND COMPANY LIMITED (M6 JUNCTION 10) (SLIP ROADS, SPECIAL ROADS) COMPULSORY PURCHASE ORDER 2018 (“the HE CPO”)

THE WALSALL METROPOLITAN BOROUGH COUNCIL (M6 JUNCTION 10) COMPULSORY PURCHASE ORDER 2018 (“the Council’s CPO”)

SECRETARY OF STATE’S DECISION – THE SPECIAL ROADS SCHEME AND THE COUNCIL’S CPO CONFIRMED WITH MODIFICATIONS AND THE SIDE ROADS ORDER AND THE CPO CONFIRMED WITHOUT MODIFICATIONS

1. I refer to your application, submitted on behalf of Highways England Company Limited (“HE”) and Walsall Metropolitan Borough Council (“the Council”) for the confirmation of the above named Scheme and Orders. The Secretary of State for Transport (“the Secretary of State”) has decided to confirm the Special Roads Scheme and the Council’s CPO with modifications and the Side Roads Order and the HE CPO without modifications, and this letter constitutes his decision to that effect.

2. The confirmed Special Roads Scheme, Side Roads Order, HE CPO and Council’s CPO will, respectively, authorise HE/the Council to:

- a) provide special roads for the use of traffic Classes I and II of the classes of traffic set out in Schedule 4 of the Highways Act 1980 at the location of Junction 10 of the M6 in the Metropolitan Borough of Walsall;
- b) improve highways; stop up highways; and construct new highways;
- c) to purchase compulsorily the land for the purposes of the construction of (and

mitigating the adverse effect of) the above mentioned HE Special Roads Scheme and HE Side Roads Order, to be carried out in connection with a scheme to alter and improve Junction 10 of the M6 Motorway; and

- d) to purchase compulsorily the land and the new rights over land described therein for the purposes of improving existing and constructing new highways in connection with a scheme to alter and improve Junction 10 of the M6 Motorway.

MODIFICATIONS

3. The Secretary of State will make the necessary modifications to the Council's CPO for it to accord with the 'Revised' Council's CPO, as proposed by the Council and as recommended by the Inspector, which are detailed in Annex A to this letter.

4. In addition to the above mentioned modifications the Secretary of State will make the following modifications which have been agreed to by HE/Walsall Metropolitan Borough Council and are:

- In relation to the Special Roads Scheme – Article 1 is deleted and the subsequent articles re-numbered. Under “the deposited plan” it is proposed to amend the plan title by replacing “Special Roads, Side Roads” with “Slip Roads, Special Roads”, as this is the title on the plan. Under “the new highways” the title of the Side Roads Order is amended by the addition of brackets in relation to the words (M6 Junction 10) to accord with the title of the Side Roads Order. The number (i) before “the special roads” is replaced by (vi).
- In relation to the Council's CPO - In Article 2 the wording “M6 Junction 10” is added between “Council” and “Compulsory” in the reference to the title on the map.

CONSIDERATIONS FOR DECISION

5. As there were statutory objections to the Scheme and Orders it was decided that concurrent Public Local Inquiries should be held for the purposes of hearing those objections. In the days leading up to the Inquiries a number of the objections were withdrawn and the last remaining objection was withdrawn a matter of hours before the Inquiries were due to start. In the absence of a formal notification the Inspector opened the Inquiries as planned at 10.00 am on 2 April 2019. However, only representatives of the promoting authorities (Highways England and the Council) were present at the Inquiries.

6. The Inspector considered all representations about the Scheme and 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 Crichel Down Rules* and *The Highways Act 1980*, in reaching his decision on the Scheme and Orders.

7. In relation to a Special Roads Scheme namely:

- The purpose for which the Order is promoted is extending, improving and/or reorganising the Trunk Road system; and
- Having taken into consideration the requirements of local and national planning, including agriculture, that the proposal is expedient for the purpose intended.

8. In relation to a Side Roads Order namely:

- In relation to the stopping up of highways, that another reasonably convenient route is available or will be provided before the highway is stopped up; and
- In relation to the stopping up of private access to premises, that: no means of access to the premises is reasonably required; or, that another reasonably convenient means of access to the premises is available or will be provided in pursuance of an order by virtue of section 125(1)(b) or otherwise.

9. In relation to a CPO namely:

- 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;
- the acquiring authority should have a clear idea of how it intends to use the land that it wishes to acquire;
- 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
- there should be a reasonable prospect of the scheme going ahead and it should be unlikely to be blocked by any impediment to implementation.

10. The Secretary of State has carefully considered whether the purposes for which the CPOs are required sufficiently justify interfering with the human rights with those with an interest in the CPOs and is satisfied that they do. In particular, consideration has been given by the Secretary of State 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 IR 4.13 and is satisfied that in confirming the CPOs a fair balance has been struck between the public interest and interests of those affected by the CPOs.

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 Scheme and Orders. He accepts that the modifications referred to in paragraphs 3 and 4 above are necessary and that they should be made. Accordingly, subject to the additional modifications set out at paragraph 4, the Secretary of State agrees with the Inspector's recommendations and has decided to confirm:

- a) The Highways England Company Limited (M6 Junction 10) (Slip Roads, Special Roads) Scheme 2018 as modified by him;

- b) The Highways England Company Limited (M6 Junction 10) (Slip Roads, Special Roads) (Side Roads) Order 2018 as made;
- c) The Highways England (M6 Junction 10) (Slip Roads), Special Roads) Compulsory Purchase Order 2018 as modified by him; and
- d) The Walsall Metropolitan Borough Council (M6 Junction 10) Compulsory Purchase Order 2018 as made.

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

COMPENSATION

13. 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/Highways England 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

14. A copy of this letter, 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

15. Please arrange for a copy of the Inspector's report and of this letter to be made available for inspection at the offices of Highways England/the Council and at all other places used to deposit the Scheme and 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 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

16. Notice is to be published of making/confirmation of the Scheme and Orders. Any person who wishes to question the validity of the made/confirmed Scheme and 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 making/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 made/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 made/confirmed the Orders.

Yours faithfully,

A handwritten signature in black ink, appearing to read '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