



Department  
for Transport

**National Transport Casework Team**

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Your Ref: LSG4/LC/5.53401

Our Ref: NATTRAN/NW/LAO/152

Date: 11 April 2019

Dear Mr Hudson and Ms Campy

**THE LANCASHIRE COUNTY COUNCIL (PRESTON WESTERN DISTRIBUTOR, EAST WEST LINK ROAD AND COTTAM LINK CLASSIFIED ROADS) (SIDE ROADS) ORDER 2018**

**THE LANCASHIRE COUNTY COUNCIL (PRESTON WESTERN DISTRIBUTOR, EAST WEST LINK AND COTTAM LINK ROADS) COMPULSORY PURCHASE ORDER 2018**

**THE LANCASHIRE COUNTY COUNCIL (LEA VIADUCT) SCHEME 2018**

**THE LANCASHIRE COUNTY COUNCIL (SAVICK BROOK VIADUCT) SCHEME 2018**

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

1. I refer to your application, submitted on behalf of Lancashire County Council (“the Council”), for confirmation of the above named Bridge Schemes, Side Roads Order and Compulsory Purchase Order. The Secretary of State for Transport (“the Secretary of State”) has decided to confirm, as modified by him, the Schemes and Orders and this letter constitutes his decision to that effect.

2. The confirmed Schemes, Side Roads Order and Compulsory Purchase Order will, respectively, authorise the Council to:

(i) construct over the navigable waters of the Lancaster Canal, the bridge specified in the Schedule to the Scheme as part of the highway which they are proposing to construct between the M55 motorway at Junction 2 and the highway known as A583 Riversway, Preston;

(ii) construct over the navigable waters of the Savick Brook (Millenium Ribble Link), the

bridge specified in the Schedule to the Scheme as part of the highway which they are proposing to construct between the M55 motorway at Junction 2 and the highway known as A583 Riversway, Preston;

- (iii) (a) improve highways (including raising, lowering or otherwise altering);
- (b) stop up highways;
- (c) construct new highways;
- (d) stop up private means of access to premises; and
- (e) provide new means of access to premises,

all on or in the vicinity of the route of the classified road to be known as:

- a) The Preston Western Distributor Road which the Council is proposing to construct between the M55 to the north and A583/A5085 Blackpool Road/Riversway junction to the south;
  - b) The East West Link Road which the Council is proposing to construct between the Preston Western Distributor Road to the west and B6241 Lightfoot Lane to the east;
  - c) The Cottam Link Road which the Council is proposing to construct between the Preston Western Distributor Road to the west and Cottam Way to the east; and
- (iv) purchase compulsorily the land and new rights over the land for the purposes of the construction of a new highway, the construction of new highways to connect to the above mentioned highways, the stopping up diversion and improvement of existing highways, the provision of new means of access to premises, the carrying out of drainage works, the improvement or development of frontages to a highway, use by the Acquiring Authority in connection with the construction and improvement and maintenance of highways, in connection with the carrying out of works related to the classified road and the mitigation of any adverse effects.

## MODIFICATIONS

3. The Secretary of State notes the Inspector's suggested modifications to the Compulsory Purchase Order, as referred to at paragraph 7 and footnote 10 of the Inspector's report, appendices LCC029.1 and LCC029.2. However, it is to be noted that the Secretary of State has decided not to modify the Compulsory Purchase Order in respect of any changes to ownership of the land or any changes to owners, occupiers, tenants or lessees and their personal details (i.e. addresses). It is considered that modifications of this kind are unnecessary as the confirmed Order will authorise compulsory acquisition of the Order land, irrespective of its ownership.

4. The Secretary of State will also make modifications to the Side Roads Order as referred to at paragraph 7 and footnote 10, appendices LCC030.2-LCC030.2.8. The Secretary of State is in agreement with the Inspector that the modifications are necessary and he does not consider that any of the modifications would materially alter anyone's understanding of the Orders. The Secretary of State will also replace the plans associated with the two Bridge Schemes, as agreed with the Council prior to the Inquiries.

## CONSIDERATIONS FOR DECISION

5. As the Schemes and Orders received statutory objections, it was decided that concurrent Public Local Inquiries should be held for the purposes of hearing those objections. Such Inquiries were held on 20 November, 21 November and 04 December 2018 at County Hall, Lancashire before Inspector Philip Asquith MA(Hons) MA MRTPI, an independent Inspector appointed by the Secretary of State.

6. The Inspector considered all representations and objections about the Schemes 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 (sections 14, 125 and 106)*, in reaching his decision on the Schemes and Orders.

In relation to the Bridge Schemes, namely that:

- i) the reasonable requirements of navigation over the waters affected by the Schemes have been taken into account;
- ii) the Schemes include plans and specifications as are necessary to indicate the position and dimensions of the proposed bridge including its spans, headways and waterways; and
- iii) no objections have been made to the Schemes by the Environment Agency or relevant navigation authority on the ground that the bridge is likely to obstruct or impede the performance of their functions under any enactment, or to interfere with the reasonable requirements of navigation over the waters affected by the Schemes.

In relation to the Side Roads Order, 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.

In relation to the Compulsory Purchase 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 going ahead and it should be unlikely to be blocked by any impediment.

## CONCLUSION

7. The Secretary of State has considered carefully all the objections to, and representations about, the Schemes and Orders. The Secretary of State notes that there are no objections to the Scheme from the Environment Agency or the Canal and River Trust and that the navigable waters are not tidal.

8. Particular consideration has been given 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 conclusions at paragraph 115 and considers that the benefits of the Compulsory Purchase Order are proportionate to the interference of the human rights.

9. The Secretary of State is satisfied that the scheme 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 106 for the Bridge Schemes; 239, 240, 246, 250 and 260 for the Compulsory Purchase Order and sections 14 and 125 for the Side Roads Order.

10. Furthermore, he is satisfied that there are clear descriptions of why the Order lands are required and how they will be used and that 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.

11. The Secretary of State is satisfied that where highways are to be stopped up, that a reasonably convenient alternative route is available or will be provided. Also, where private means of access to premises are to be stopped up, either no access is reasonably required or another reasonably convenient means of access is available or will be provided.

12. Provision has been made, in the Side Roads Order for the preservation of the rights of any statutory undertakers in respect of their apparatus.

13. 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 Schemes and Orders. Accordingly, the Secretary of State agrees with the Inspector's recommendations and has decided to confirm, as modified by him, 'The Lancashire County Council (Lea Viaduct) Scheme 2018', 'The Lancashire County Council (Savick Brook Viaduct) Scheme 2018', 'The Lancashire County Council (Preston Western Distributor, East West Link and Cottam Link Classified Roads) (Side Roads) Order 2018' and 'The Lancashire County Council (Preston Western Distributor, East West Link and Cottam Link Roads) Compulsory Purchase Order 2018'.

14. In confirming the Orders, the Secretary of State has relied on the information that

the Council and others have provided, as contained in the Schemes and Orders and any related plans, diagrams, statements or correspondence, as being factually correct. Confirmation is given on this basis.

### COMPENSATION

15. 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.

### AVAILABILITY OF DOCUMENTS

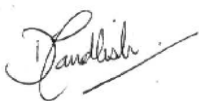
16. A copy of this letter, together with a copy of the Inspector's report, has been sent to those parties who appeared at the Inquiries, other interested parties and relevant Members of Parliament. Copies will be made available on request to any other persons directly concerned.

17. 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.

### RIGHT OF CHALLENGE

18. Notice is to be published of confirmation of the Schemes and Orders. Any person who wishes to question the validity of the confirmed Schemes 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 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 Schemes and 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 Schemes and Orders.

Yours sincerely,



### **DAVE CANDLISH**

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