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Your Ref:

Our Ref: LAO/EM/BrSc/2013/31

LAO/EM/SRO/2013/29

LAO/EM/CPO/2013/30

Date: 8 July 2014

Dear Madam

HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981

THE LINCOLNSHIRE COUNTY COUNCIL (RIVER WITHAM BRIDGE) SCHEME
2013 ("the Scheme")
THE LINCOLNSHIRE COUNTY COUNCIL (A15 LINCOLN EASTERN BYPASS)
(CLASSIFIED ROAD) (SIDE ROADS) ORDER 2013 ("the SRO")
THE LINCOLNSHIRE COUNTY COUNCIL (A15 LINCOLN EASTERN BYPASS)
COMPULSORY PURCHASE ORDER 2013 ("the CPO")

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to refer to the concurrent Public Local Inquiries ("the Inquiry") held at the Bentley Hotel, South Hykeham between 4 and 12 February 2014 before Diane Lewis BA(Hons) MCD MA LL.M. MRTPI, an Inspector appointed by the Secretary of State to hear objections to and representations about the above named Scheme and Orders submitted for confirmation by Lincolnshire County Council ("the Council").

2. If confirmed by the Secretary of State the Scheme, SRO and CPO would, respectively, authorise the Council to:

- (i) construct, as part of the new highway between the A15 Wragby Road East roundabout and the A15 Sleaford Road, a bridge over the navigable waters of the River Witham;
- (ii) improve highways, stop up highways, construct new highways, stop up private means of access to premises and provide new means of access to premises; and
- (iii) purchase compulsorily land and new rights over land for the purposes of the construction of a highway between the A158 Wragby Road East roundabout and the

A15 Sleaford Road; the construction of highways to connect the above mentioned highway with the existing road system at Hawthorn Road, Greetwell Road, Washingborough Road, Lincoln Road (Branston) and Bloxholm Lane; the construction of other highways and improvement of existing highways in pursuance of the SRO; the provision of new means of access to premises in pursuance of the SRO; the diversion of watercourses and the carrying out of other works on watercourses in connection with the construction and improvement of highways and the provision of new means of access to premises as aforesaid; the use of land in connection with the construction or improvement of highways or with the carrying out of works authorised under the SRO and mitigating the adverse effects which the existence or use of the highways proposed to be constructed or improved will have on the surroundings thereof.

THE INSPECTOR'S REPORT

3. The Inspector has considered all the objections to and representations about the Scheme and Orders both as made in writing and presented orally at the Inquiry and has submitted her report to the Secretary of State. A copy of that report is enclosed with this letter. References in this letter to the Inspector's report are indicated by the abbreviation "IR" followed by the paragraph number in the report.

4. The Inspector's report summarises the case for the Council at IR 3.1 to IR 3.81. The case for supporters of the Council's scheme is summarised at IR 4.1 to IR 4.4, the case for the objectors is summarised at IR 5.1 to IR 5.105, the Alternatives are summarised at IR 6.1 to IR 6.22 and the Council's rebuttal of the objections and the Alternatives is at IR 7.1 to IR 7.100. The Inspector's conclusions are detailed at IR 8.1 to IR 8.99 and her recommendations are given at IR 9.1 to IR 9.4.

THE INSPECTOR'S CONCLUSIONS AND RECOMMENDATIONS

5. In light of her conclusions the Inspector recommended at IR 9.1 to IR 9.4 that the Scheme be modified as set out in Inquiry Document LCC/00/06 and that the Scheme as modified be confirmed and that the SRO and the CPO not be confirmed. A copy of Inquiry Document LCC/00/06 can be found at the Annex to this letter.

POST INQUIRY CORRESPONDENCE

6. Following the close of the Inquiry, correspondence has been received from Mr Christopher Darcel, CBRE Limited on behalf of Jesus College Oxford, Nettleham Parish Council, Louise Carder and Lincolnshire County Council.

THE DECISION OF THE SECRETARY OF STATE

7. The Secretary of State has considered carefully all the objections to, and representations about, the Scheme and Orders, including alternative proposals put forward, counter objections and representations and expressions of support. He has considered the Inspector's report and accepts her conclusions and recommendations. The Secretary of State has also carefully considered the matters raised in the post inquiry correspondence alongside the Inspector's report in reaching his decision. However, he is satisfied that there is nothing new raised in this correspondence that

has not already been adequately addressed by the Inspector or which causes him to disagree with the Inspector's conclusions and recommendations.

8. The Secretary of State has noted the legal submissions in relation to the consultation on the planning application for the Lincoln Eastern Bypass and in objection to the CPO and is satisfied with the handling of these by the Inspector.

9. The Secretary of State is in agreement with the Inspector that the absence of any objection to the Scheme confirms that the reasonable requirements of navigation over the waters affected by the Scheme have been accommodated. Furthermore, in relation to the failure of the plan to identify all the points of reference and watercourses referred to in the Schedule, he agrees that these matters do not fundamentally change the proposed structure and may be corrected through modifications to the Scheme. He accepts that the modifications mentioned in paragraph 5 above are necessary and that they should be made.

10. The Secretary of State accepts the Inspector's conclusions on the serious risk to highway safety relating to the proposed route of the Non-Motorised User ("NMU") bridge. He is, therefore, in agreement with the Inspector that the statutory test requiring the availability or provision of another reasonably convenient route before any highway is stopped up has not been satisfied in relation to Hawthorn Road. This is due to the concern that to the east of the bypass, the NMU bridge would fail to provide users with a safe connection to Hawthorn Road. As the Council has not demonstrated how this matter is to be overcome and a safe crossing achieved, the Secretary of State is not satisfied that another reasonably convenient route is available or will be provided for non-motorised users.

11. Furthermore, the Secretary of State is in agreement with the Inspector that in the absence of a confirmed SRO there would be a serious impediment to implementation of the scheme. The Secretary of State, therefore, considers that the statutory tests for confirmation of the CPO are not met.

12. The Secretary of State has, for the above reasons, decided to accept the Inspector's recommendations and to confirm, as modified by him, The Lincolnshire County Council (River Witham Bridge) Scheme 2013 and to not confirm The Lincolnshire County Council (A15 Lincoln Eastern Bypass) (Classified Road) (Side Roads) Order 2013 and to not confirm The Lincolnshire County Council (A15 Lincoln Eastern Bypass) Compulsory Purchase Order 2013. This letter constitutes his decision to that effect. The unconfirmed sealed CPO and SRO Orders and Maps which were enclosed with the Council's applications are returned herewith and the confirmed Scheme will be sent to the Council in due course.

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

COSTS

14. In view of the Secretary of State's decision not to confirm the CPO, the Council and other interested parties' attention is drawn to the guidance contained in the

Department for Communities and Local Government Circular 03/09: *Costs Awards in Appeals and Other Planning Proceedings* that applies in such circumstances. Should those statutory objectors who appeared, or were represented at the Inquiry, not wish to negotiate with the Council direct, or are unsuccessful in reaching a settlement of their Inquiry costs, the Secretary of State would, on receipt of an application, be prepared to consider making an award of costs. Any such application must only include reasonable costs incurred in connection with the Inquiry, with such costs being paid by the Council, in recognition that their objection had been wholly successful.

AVAILABILITY OF DOCUMENTS

15. A copy of this letter, together with a copy of the Inspector's report, has been sent to those objectors, their representatives and the other persons who appeared and made representations at the Inquiry. A copy of this letter, together with a copy of the Inspector's conclusions and recommendations, has been sent to all other supporters of the scheme and outstanding objectors. Copies will be made available on request to any other persons directly concerned and can also be viewed at <https://www.gov.uk/government/collections/highways-act-inspectors-reports-and-decision-letters>. Please arrange for a copy of the Inspector's report and a copy 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 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, 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

16. Notice is to be published of confirmation of the Scheme. Any person who wishes to question the validity of the confirmed Scheme, 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 the Scheme may, under the provisions of Schedule 2 to the Highways Act 1980, do so by application to the High Court. Such an application must be made within six weeks of publication of the notice that the Scheme has been confirmed. The High Court cannot entertain an application under Schedule 2 before publication of the notice that the Secretary of State has confirmed the Scheme.

Yours faithfully

A rectangular area of the document has been redacted with a grey box, obscuring the signature of the Secretary of State. The redaction is positioned below the 'Yours faithfully' text and above the name 'VICTORIA POINTER'.

VICTORIA POINTER
Authorised by the Secretary of State
to sign in that behalf

THE SCHEDULE TO THE SCHEME

PLAN AND SPECIFICATIONS OF THE LINCOLNSHIRE COUNTY COUNCIL (RIVER WITHAM BRIDGE) SCHEME 2013

The location and general design of the Bridge are shown on the plan B/1054738/1700/RW/D001 and annexed hereto and marked "The Lincolnshire County Council (River Witham Bridge) Scheme 2013"

POINTS OF COMMENCEMENT AND TERMINATION

Commencing from a point to the north of the River Witham 140 metres north of the middle of the Sustrans cycle route (measured along the line of the proposed highway).

The bridge will pass over the North Delph the River Witham the South Delph, Soak Dyke/Canwick Fen Drain.

Terminating on the south side of the River Witham at a point 85.2 metres south of the middle of the Sustrans cycle route (measured along the line of the proposed highway).

SPANS

A five span structure, from the north the individual square spans are 36.23 metres, 39.42 metres, 52.00 metres, 52.00 metres and 36.27 metres. The span over the River Witham is 52.00 metres. The overall square span of the structure is 215.92 metres.

HEADWAY AND WATERWAY

The Headway shall not be less than 5.20 metres above normal water level of 2.90 metres Above Ordnance Datum. This Headway shall be maintained over 50 percent of the River Witham width at normal water level.

OVERALL DIMENSIONS

The overall square Bridge width will vary from 15.800 metres excluding parapets at the south abutment end to 16.970 metres excluding parapets at the north abutment. The Bridge will carry a 7.3 metre wide carriageway, bordered on either side by hard strips of one metre in width. A 4.0 metre wide cycle / footway will be provided on the west side. On the east side, there will be a hardened verge that varies in width from 2.500 metres at the south abutment to 3.670 metres at the north abutment.