



Department
for Transport

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Your Ref: Legal/JMc/101222 (Mansfield CPO)

Our Ref: NATTRAN/EM/LAO/150

Date: 21 March 2019

Dear Mr McIvor

THE LEICESTER CITY COUNCIL (BELGRAVE GATE AND MANSFIELD STREET LINK ROAD AND IMPROVEMENT SCHEME, LEICESTER) COMPULSORY PURCHASE ORDER 2018

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

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

2. The confirmed Compulsory Purchase Order will authorise the Council to purchase compulsorily the land and new rights over the land for the purposes of the construction of a new highway and improvement of existing highway, the acquisition of new rights by the Council in connection with the construction and improvement of highway, and the improvement or development of frontages to the new and existing highway or of the land adjoining or adjacent thereto.

CONSIDERATIONS FOR DECISION

3. As the Order received statutory objections, it was decided that a Public Inquiry should be held for the purposes of hearing those objections. Such Inquiry was held on 04 December 2018 at City Hall, Leicester, before Inspector John Wilde CEng MICE, an independent Inspector appointed by the Secretary of State.

4. The Inspector considered all representations and objections about the Order and subsequently submitted a report to the Secretary of State, a copy of which is enclosed with this letter. Following the close of the Inquiry, one of the statutory objections was withdrawn.

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 (sections 239, 240 and 250)*, in reaching his decision on the 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 to implementation.

CONCLUSION

5. The Secretary of State has considered carefully the objections to, and representations about, the Order and is mindful that one of the objections has now been withdrawn. He has also given thorough consideration 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 conclusion at paragraph 58 of his report and considers that the benefits of the Compulsory Purchase Order sufficiently justify the interference with the human rights.

6. The Secretary of State is satisfied that the scheme has the benefit of a valid planning permission and that the Order has been made in accordance with the relevant sections of the legislation, namely sections 239, 240 and 250 of the Highways Act 1980.

7. Furthermore, he is satisfied that there are clear descriptions of why the Order land is required and how it will be used. 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.

8. Having considered all aspects of the scheme, the Secretary of State is satisfied that there are no compelling reasons which would justify not confirming the Order. The Secretary of State agrees with the Inspector's recommendations and has decided to confirm, as modified by him, 'The Leicester City Council (Belgrave Gate and Mansfield Street Link Road and Improvement Scheme, Leicester) Compulsory Purchase Order 2018.'

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

MODIFICATIONS

10. The Secretary of State will make the following modifications to the Compulsory Purchase Order as agreed with the Council prior to the Inquiry. He does not consider that any of the modifications would materially alter anyone's understanding of the Order.

- (i) Removal of paragraph 1 (4) which states "*mitigating the adverse effect which the existence or use of the highway proposed to be constructed or improved as mentioned in article 1 (1) of this order will have on the surroundings thereof*";
- (ii) Addition of '(a)' after "*other qualifying persons under section 12(2A).. of the Acquisition of Land Act 1981*" in both Table 1 (i) and Table 2;
- (iii) Removal of the word "*approx*" from the plot descriptions in Table 1 (i) and 1 (ii);
- (iv) Title of the accompanying maps at Appendix 1 to be changed to read 'MAP REFERRED TO IN THE LEICESTER CITY COUNCIL (BELGRAVE GATE AND MANSFIELD STREET LINK ROAD AND IMPROVEMENT SCHEME, LEICESTER) COMPULSORY PURCHASE ORDER 2018' and;
- (v) Date of the accompanying maps at Appendix 1 to be changed to read 15 January 2018.

COMPENSATION

11. 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

12. A copy of this letter, together with a copy of the Inspector's report, has been sent to those parties who appeared at the Inquiry, other interested parties and relevant Members of Parliament. Additional copies are available upon request to this office.

13. 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 Order 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

14. Notice is to be published of confirmation of the Order. Any person who wishes to question the validity of the confirmed Order, 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 Order has 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 Order.

Yours sincerely,

A handwritten signature in cursive script, 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