



Department for Transport

The Cornwall Council
County Hall
Treyew Road
Truro
Cornwall
TR1 3AY

Stephen Cave
Head of Rail Projects Division
General Counsel's Office
Department for Transport
Zone 2/16 - 21
Great Minster House
33 Horseferry Road
London SW1P 4DR

DfT's Legal Service is part of the Treasury Solicitor's
Department (TSol)

Enquiries: 020 7944 2487

Email: transportandworksact@dft.gsi.gov.uk

Web Site: www.gov.uk/dft

Our ref: TWA 8/1/12
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Dear Sirs,

5 February 2015

PLANNING ACT 2008: APPLICATION FOR THE CORNWALL COUNCIL (A30 TEMPLE TO HIGHER CARBLAKE IMPROVEMENT) ORDER

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to say that consideration has been given to the report of the Examining Authority, Alan T Gray MRICS DipTP MRTPI, who conducted an examination into the application made by The Cornwall Council ("the applicant") on 15 August 2013 for the Cornwall Council (A30 Temple to Higher Carblake Improvement) Order ("the Order") under sections 37, 114, 115, 117(4), 120 and 122 of the Planning Act 2008 ("the 2008 Act").
2. The examination of the application began on 6 February 2014 and was completed on 6 August 2014. The examination was conducted on the basis of written evidence submitted to the Examining Authority and by a series of hearings held at Bodmin between 7 April 2014 and 22 July 2014.
3. The Order would grant development consent for the dualling of the existing single carriageway section of the A30 trunk road for a distance of 4.5 kilometres between Temple and Higher Carblake to the north-east of Bodmin in Cornwall (referred to in this letter as "the project"). The Order would also authorise the compulsory acquisition and use of land for the purposes of the project. The objectives of the project are to support the Cornish economy, improve journey time reliability, reduce congestion, improve road safety and improve the resilience of the route.
4. Enclosed with this letter is a copy of the Examining Authority's report. The project is described in section 2 of the report. The Examining Authority's findings are set out in sections 4 to 6 of the report, and his overall conclusions and recommendation are at section 7 of the report.

Summary of the Examining Authority's recommendation

5. The Examining Authority recommended that the Order be made, in the form set out in Appendix E to his report.

Summary of Secretary of State's decision

6. **The Secretary of State has decided under section 114 of the 2008 Act to make with modifications an Order granting development consent for the project.** This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and regulation 23(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Secretary of State's consideration

7. The Secretary of State's consideration of the Examining Authority's report is set out in the following paragraphs. Where not stated in this letter, the Secretary of State can be taken to agree with the Examining Authority's conclusions as set out in his report. All paragraph references, unless otherwise stated, are to the Examining Authority's report ("ER") and references to requirements are to those in Schedule 2 to the Order, as set out in Appendix E to the ER.

Legal and policy context

8. Since the Examining Authority wrote his report, the Secretary of State designated the National Networks National Policy Statement ("NNNPS") under section 5(4) of the 2008 Act on 14 January 2015. The Secretary of State is now therefore required to decide this application in accordance with section 104 of the 2008 Act (decisions in cases where national policy statement has effect) rather than section 105 of the 2008 Act. This means that, in addition to the matters set out at ER 3.1, he must also have regard to the NNNPS as designated and must decide this application in accordance with the NNNPS unless any of the considerations described in section 104(4) to (8) of the 2008 Act apply.

9. The Secretary of State has accordingly taken the designated NNNPS into account and has considered whether the applicant and other parties should be consulted on the implications of the changes to the December 2013 draft NNNPS for the cases which they presented to the examination. He has concluded that none of those changes are significant to his decision on this application to the extent that warrants further consultation. He is satisfied that the policies in the draft NNNPS on the need for development of the national road network, assessment principles and generic impacts have been sufficiently carried forward into the designated NNNPS and were adequately addressed in the examination, such that, in the Secretary of State's opinion, the Examining Authority's overall conclusion on the support which the project draws from the draft NNNPS remains relevant in relation to the designated NNNPS. However, to the extent that the designated NNNPS differs materially from the December 2013 draft, the Secretary of State's consideration of the Examining Authority's conclusions in the light of those changes is explained at paragraphs 13, 23, 24 and 26 below.

10. In all other respects, the Secretary of State agrees with the Examining Authority's assessment of the legislation and policy that are relevant and important matters to be taken into account in deciding this application and the weight to be given to relevant policies (ER 3.5-33), with the qualification that the designated NNNPS is now the primary basis for decisions on development consent orders relating to the national road network. The Secretary of State confirms that he has had regard to the legislation and policy referred to by the Examining Authority in deciding this application. He agrees with the

Examining Authority that the project enjoys broad support at national and local policy levels subject to the provision of effective mitigation (ER 3.35-37).

The Environmental Statement

11. The Secretary of State agrees with the Examining Authority that the overall approach of the Environmental Statement (“ES”) is appropriate (ER 4.7-16). He is satisfied that the ES taken with all the supplementary environmental information submitted by the applicant before or during the examination is sufficient for the purposes of his decision on this application and notes that the Examining Authority has taken all the environmental information into account in writing his report (ER 1.6).

Need and justification for the project and alternatives

12. The Secretary of State notes that the need to address the problems of poor road safety, congestion, poor journey time and poor route resilience on the existing single carriageway section of the A30 between Temple and Higher Carblake is unchallenged. Taking into account the predicted safety, transportation and economic benefits, he agrees with the Examining Authority that there is a sound justification for the project as a means of addressing those problems (ER 4.17-21). In addition, with regard to road safety and paragraphs 4.60-66 of the designated NNNPS, the Secretary of State is satisfied that the applicant has taken and will take all reasonable steps to minimise the risk of road casualties arising from the project and to contribute to an overall improvement in the safety of the Strategic Road Network.

13. The Secretary of State notes that both online and offline alternatives to the project have been properly explored over the last decade and agrees with the Examining Authority, for the reasons he has given, that the project is the best means of addressing the problems and securing the benefits (ER 4.22-24). With regard to paragraph 4.27 of the designated NNNPS, the consideration of alternatives reported in the ES did not include viable modal alternatives as this was not required at the time when the project was being developed or during the examination. The Secretary of State notes, however, from paragraph 1.1.4 of the applicant’s Transport Assessment that neither train nor bus was considered to be a viable alternative to car travel on the A30 corridor because of the relatively long journey times involved in travel by those modes. He is satisfied, therefore, that those modes would not realistically be likely to address the identified need for the project and that it would not be appropriate to require the applicant to provide a further assessment of modal alternatives to this project before he decides this application.

Transport Assessment

14. The Secretary of State agrees with the Examining Authority that the applicant’s Transport Assessment, which concludes that the project would alleviate current and predicted congestion by enhancing capacity, is robust and reliable (ER 4.25-27). He notes also that the project represents high value for money with a benefit to cost ratio of 6.34:1 and agrees with the Examining Authority that the applicant’s economic assessment soundly reinforces the case for the project (ER 4.29–33).

Highway design

15. The Secretary of State notes that the applicant's approach to the design of the project has included minimising its footprint within the existing route corridor so as to contain its visual impact and reflect the surroundings of the project, for example by use of local materials, to mitigate landscape impacts. He agrees with the Examining Authority that the project would in this way respect, maintain and enhance local landscape character and distinctiveness (ER 4.36-41). Like the Examining Authority, he does not consider that the design of the grade separated junctions should be modified as proposed by some interested parties and is satisfied overall that the design principles are sound (ER 4.42-53, 4.57). With regard to paragraphs 4.28-35 of the designated NNNPS, the Secretary of State considers that the applicant has demonstrated good design.

Community and private assets

16. The Secretary of State notes that the project would have a *slight adverse* impact as a result of the permanent loss of 12.4 hectares of agricultural land, but that it would have a slight or moderate beneficial effect by reducing severance between communities on either side of the A30. He agrees with the Examining Authority's overall conclusion that the project's impact on community and private assets would be minimal and that, where required, mitigation would be secured through the requirements (ER 4.63-71).

Cumulative effects

17. The Secretary of State agrees with the Examining Authority that the applicant's assessment of cumulative effects has been appropriately undertaken in accordance with the Design Manual for Roads and Bridges ("DMRB") and notes that *minor adverse* cumulative effects are predicted for some nearby dwellings during construction and operation. He agrees with the Examining Authority that these effects are regrettable but inevitable given the proximity of those dwellings to the project (ER 4.72-75).

Cultural heritage

18. The Secretary of State has considered the effects of the project on archaeological remains and historic buildings summarised at ER 4.76-84 and notes in particular that English Heritage had no outstanding concerns in respect of the high grade designated assets affected by the project. He agrees with the Examining Authority that, while there would be some adverse impacts on cultural heritage assets, those impacts would be moderate following the mitigation secured through the requirements and the Environmental Mitigation Schedule; and that they are acceptable when balanced against the scale and corridor nature of the project (ER 4.85). The Secretary of State agrees also that with the proposed mitigation the affected heritage assets and their setting would be preserved to an acceptable degree (ER 4.86).

Ecology and nature conservation

19. The Secretary of State agrees with the Examining Authority that there is no requirement to carry out an appropriate assessment under the Conservation of Habitats and Species Regulations 2010 in respect of the project (ER 4.88-89). He notes that the applicant's assessment of potential ecological effects follows DMRB guidelines and that Natural England ("NE") has no objection to the project subject to the provision of

satisfactory mitigation (ER 4.90-92). In this regard, the Secretary of State notes that NE has issued a “letter of no impediment” to the granting of a European Protected Species Licence for dormice and he is, like the Examining Authority, satisfied that comprehensive mitigation for the project would be secured through the requirements and the applicant’s commitments to engage with NE and other parties (ER 4.93-99).

Noise and vibration

20. The Secretary of State notes that, with mitigation, the impact of construction noise for most of the affected roadside dwellings was predicted to be negligible/minor or negligible, but that four properties within 20 metres of construction activities could suffer a greater adverse effect. He agrees with the Examining Authority that the measures secured through the requirements would mitigate the adverse noise impacts during construction as much as practically possible, and if necessary, compensation would be available to deal with quantifiable residual adverse impacts (ER 4.103-106, 4.115).

21. With regard to operational traffic noise, the Secretary of State notes that the majority of dwellings within the vicinity of the A30 would experience a decrease in noise levels as a result of the project and that where an increase in noise level is predicted the significance of the effect would, with mitigation, be *negligible adverse* (ER 4.107-108, 4.116). He agrees with the Examining Authority that the predicted noise impacts of the project in operation are acceptable (ER 4.110-114, 4.116) and considers that the vibration impacts of the project are similarly acceptable (ER 4.109).

Air quality

22. The Secretary of State notes that the project is predicted to have an overall beneficial air quality impact on the locality, largely due to the reduction in traffic congestion on the A30 during peak demand periods (ER 4.117). He notes in particular that during construction the risk of dust and particulate emissions would, with mitigation, be managed and reduced to an acceptably low level; and that in operation concentrations of particulate matter (PM₁₀) and NO₂ would be well within the objectives of the UK Air Quality Strategy (ER 4.119-120). The Secretary of State agrees with the Examining Authority that the air quality impacts of the project do not give cause for concern (ER 4.121-125).

23. Although the applicant did not provide in its ES a judgement on the risk of the project affecting the UK’s ability to comply with the EU Directive on Ambient Air Quality (2008/50/EU) as now required by paragraph 5.9 of the designated NNNPS, the Secretary of State notes that the ES predicts at paragraph 6.8.28-29 that the increase in vehicle kilometres as a result of the project is likely to result in an imperceptible increase in emissions at a regional level. In the light of this and the Examining Authority’s conclusions on air quality impacts referred to above, he is satisfied that the project is unlikely to affect the UK’s ability to comply with that Directive. With regard to paragraph 5.14 of the designated NNNPS he considers also that the project is unlikely to delay the point at which the South West air quality zone will meet compliance timescales.

24. With regard to paragraphs 5.16-19 of the designated NNNPS about carbon emissions, the Secretary of State notes the applicant’s assessment that by reducing congestion at peak times the project would reduce emissions from queuing traffic and result in an improvement in local air quality and that no mitigation of adverse impacts is

therefore required (paragraph 6.9.4 of the ES). As regards the impact of the project on regional emissions of pollutants, he notes that the increase was predicted to be of imperceptible magnitude and therefore negligible (paragraph 6.9.5 of the ES). Although the ES did not assess the project against the Government's carbon budgets - which was not a requirement at the time of the application - the Secretary of State is satisfied that the emissions resulting from the project are unlikely to be so significant as to affect the Government's ability to meet its carbon reduction plan targets.

Landscape and visual effects

25. The Secretary of State notes that the project has the potential to effect the Bodmin Moor Area of Outstanding Natural Beauty ("AONB") and other Areas of Great Landscape Value and Landscape Character Areas, particularly as a result of the construction of grade-separated junctions (ER 4.126-129). He agrees with the Examining Authority that the applicant has incorporated appropriate measures in the design of the project to ensure that it would be integrated into the local landscape (ER 4.130-135). With regard to the Examining Authority's assessment of specific landscape impacts at ER 4.136-145 he notes that overall they would reduce from *moderate adverse* during construction and Year 1 to *slight adverse* by Year 15 and agrees with the Examining Authority that the potentially adverse effects have been satisfactorily mitigated and are acceptable (ER 4.147).

26. The Secretary of State agrees with the Examining Authority that, having regard to paragraphs 5.150-153 of the designated NNNPS, there are exceptional circumstances for granting development consent for the project because it is in the public interest (ER 4.145). He is satisfied that the other tests referred to in those paragraphs of the NNNPS are met in this case and, in particular, that the presumption against significant road-widening in an AONB at paragraph 5.153 of the designated NNNPS does not apply because there are compelling reasons for the project (ER 4.19, 5.94) and the benefits of the project significantly outweigh its costs (ER 4.32).

27. With regard to the loss of visual amenity for nearby dwellings, the Secretary of State notes that there would be a severe, temporary impact during construction, but that with the establishment of mitigation planting this would reduce to *slight adverse* by Year 15. He agrees with the Examining Authority that these effects are not so severe as to outweigh the overall balance in favour of the project (ER 4.148). He similarly agrees that the project would not have significant permanent adverse effects on the setting of listed buildings (ER 4.149).

30. The Secretary of State agrees with the Examining Authority's overall conclusions on the landscape and visual impacts of the project. He is satisfied that the adverse impacts have been appropriately mitigated and are outweighed by the factors in favour of the project (ER 4.150-153).

Public rights of way

31. The Secretary of State agrees with the Examining Authority that the project will have no long-term adverse effect on the public rights of way network, and that the network would be improved by the provision of grade separated junctions allowing non-motorised users access to cross the A30 safely. He agrees also with the Examining

Authority that the issue of long-distance cycling facilities on the A30 could not be addressed by this project in isolation (ER 4.154-160).

Socio-economic implications

32. The Secretary of State agrees with the Examining Authority that the project would make a significant contribution to revitalising the Cornish economy by offering valuable socio-economic benefits. These include enhanced economic efficiency by minimising delays on the A30, the removal of barriers to key employment sectors that rely on motorised transport, and improved access to major development sites (ER 4.161-167).

The case for development consent

33. The Secretary of State agrees with the Examining Authority's overall conclusion that the project is needed and that, after mitigation, the residual adverse impacts would be acceptable and would not outweigh the benefits of the project. He is satisfied also that the project is consistent with the objectives of the NNNPS as now designated. He therefore agrees with the Examining Authority that the case for granting development consent has been made (ER 4.168-171).

Infrastructure Planning (Environmental Impact Assessment) Regulations 2009

34. The Secretary of State confirms for the purposes of regulation 3(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 that, in coming to the above conclusions, he has taken into consideration all the environmental information as defined in regulation 2(1) of those Regulations. For the purposes of regulation 23(2)(d)(iii), the Secretary of State considers that the main measures to avoid, reduce and, if possible, offset any major adverse environmental impacts of development are those specified in the requirements.

Compulsory acquisition and other land matters

35. The Secretary of State has considered the applicant's request for compulsory acquisition powers against the tests in sections 122, 123, 131, 132 and 135 of the 2008 Act, relevant guidance and the Human Rights Act 1998. He has considered also the cases of the affected parties in relation to specific areas of land within the Order limits, as set out in section 5 of the ER, and the Examining Authority's conclusions on these matters.

36. In relation to the cases of the affected parties, the Secretary of State agrees with the Examining Authority's conclusions at ER 5.26-28, 5.35-36, 5.56-58, in particular that the compulsory acquisition of the land of the affected parties is justified. He is similarly satisfied that the provisions in the Order for the temporary possession of land are appropriate and necessary for the reasons given by the Examining Authority (ER 5.77-79, 5.98).

37. With regard to the compulsory acquisition of common land and rights for the project and the applicant's proposals as to replacement land, the Secretary of State agrees with the Examining Authority that the change proposed by the applicant during the examination in relation to the replacement land for the part of Manor Common that would be taken for the project is appropriate (ER 5.66-71). He accordingly agrees with the

Examining Authority that all four plots of replacement land meet the tests in sections 131(3) and (11) and 132(2) and (11) of the 2008 Act (ER 5.75, 5.95).

38. The Secretary of State agrees with the Examining Authority's overall conclusions on these matters, for the reasons given. In particular, he agrees that:

- the project is for a legitimate purpose, there is a likelihood of sufficient funds being available and each plot to be acquired has been identified for a clear purpose (ER 5.92);
- all of the land of which compulsory acquisition is sought is required for the project or to facilitate it or is incidental to it (ER 5.93);
- there is a compelling case in the public interest for the land sought to be acquired compulsorily (ER 5.94, 5.97);
- the examination process has ensured a fair and public hearing and any interference with human rights due to the project is proportionate and strikes a fair balance between the rights of the individual and the public interest, with compensation available in respect of any quantifiable loss (ER 5.96).

39. With regard to section 135 of the 2008 Act, the Secretary of State does not consider that the letter from the Highways Agency ("HA") of 24 July 2013 satisfies the requirements of section 135 for the express consent of the Crown authority to the inclusion in the Order of compulsory acquisition and other provisions which would apply to Crown land. However, by letter of 28 January 2015, the HA has given consent which satisfies those requirements.

The Order and legal agreements

40. The Secretary of State has considered the Examining Authority's description of the evolution of the Order during the examination and his residual concerns at ER 6.1-30. Subject to the further changes referred to below, he is satisfied that the Order as recommended by the Examining Authority at Appendix E to the ER is appropriate and necessary for the implementation of the project. He is satisfied also that it is within the powers of section 114 of the 2008 Act for him to make the Order in a form which takes into account all the changes made to the Order since the application, including those referred to below. With regard to the modifications proposed by affected parties, the Secretary of State agrees with the Examining Authority, for the reasons given, that the Order should not authorise the alternative access arrangements at Higher Carblake nor require them to be provided (ER 5.57-58, 6.19-21).

41. The further changes which the Secretary of State is making to the Order are as follows:

- in article 37 (certification of plans etc.), a requirement to certify the Special Category Replacement Land plans has been added;
- in article 39 (service of notices), provisions for the service of notices or documents electronically have been added;

- article 40 (Crown land) has been deleted as it duplicates the provisions of section 135 of the 2008 Act;
- in paragraph 1 of Schedule 2 (requirements), the definition of “commence” has been deleted as section 155 (when development begins) of the 2008 Act provides for this matter;
- in requirements 4(3), 5(3), 7(3), 8(3), 9(3), 10(2), 12(6), 13(2), 14(2), 15(3), 16(2) and 17(3) of Schedule 2 the words “unless otherwise agreed/approved in writing by the local planning authority” have been deleted as they duplicate the provisions of paragraph 1(3) of Schedule 2; and.
- a number of other minor textual amendments to the Order have been made in the interests of clarity, consistency and precision, and in order to conform with the current practice for drafting Statutory Instruments.

42. The Secretary of State agrees with the Examining Authority that the legal agreements with statutory undertakers, the HA and Adrian Mansfield are necessary and proportionate in relation to the project in order to make it acceptable in planning terms (ER 6.34-41). In particular, with regard to section 138(4) of the 2008 Act and article 31 statutory undertakers), the Secretary of State agrees with the Examining Authority that the extinguishment of relevant rights or the removal of relevant apparatus is necessary for the purpose of carrying out the project (ER 6.38).

Post-examination correspondence

43. On 6 November 2014 the applicant submitted to the Secretary of State the Stage 2 Road Safety Audit of the project. The Secretary of State is satisfied that the issues raised in that report can appropriately be left to further discussion and resolution between the applicant and the HA and that any resulting design changes can be accommodated within the limits specified in the Order. The Secretary of State has also received correspondence from four interested parties submitted after the close of the examination. Nothing in any of the post-examination correspondence leads him to differ from the Examining Authority’s conclusions on this application.

Secretary of State’s overall conclusions and decision

44. The Secretary of State agrees with the Examining Authority’s overall conclusion that any disadvantages arising from implementation of the project are outweighed by the public interest benefits. He is satisfied that for all the reasons given in this letter the case for authorising the project is compelling. He has accordingly decided to accept the Examining Authority’s recommendation at ER 7.7 and is today making the Order as recommended by the Examining Authority, but subject to the modifications referred to at paragraph 41 above. The Secretary of State confirms that in reaching this decision he has had regard to all the matters specified in section 104(2) of the 2008 Act. He is satisfied that none of the considerations in section 104(4) to (8) of the 2008 Act apply and that the project accords with the principles in the NNNPS.

Challenge to decision

45. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for decision

46. The Secretary of State's decision on this application is being publicised as required by section 116 of the 2008 Act and regulation 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Yours faithfully,

Stephen Cave

ANNEX

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the date when the Order is published. The A30 (Temple to Higher Carblake Improvement) Order (as made) is being published on the Planning Inspectorate website at the following address:

<http://infrastructure.planningportal.gov.uk/projects/south-west/a30-temple-to-higher-carblake-improvement/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).