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Your Ref:

Our Ref: NATTRAN/HE/LAO/190

—Date: 17 June 2021

Dear Ms Hulley

**THE A249 TRUNK ROAD (STOCKBURY ROUNDABOUT IMPROVEMENTS) ORDER  
2021 (“the Trunk Road Order”)  
THE HIGHWAYS ENGLAND (A249 TRUNK ROAD STOCKBURY ROUNDABOUT  
IMPROVEMENTS) (SIDE ROADS) ORDER 2019 (“the SRO”)  
THE HIGHWAYS ENGLAND (A249 TRUNK ROAD STOCKBURY ROUNDABOUT  
IMPROVEMENTS) COMPULSORY PURCHASE ORDER 2019 (“the CPO”)**

**SECRETARY OF STATE’S DECISION – TRUNK ROAD ORDER TO BE MADE AND  
SRO AND CPO TO BE CONFIRMED WITH MODIFICATIONS**

1. I refer to Highways England’s (“HE”) application for making/confirmation of the above-named Orders. The Secretary of State for Transport (“the Secretary of State”) has decided to make the Trunk Road Order and to confirm the SRO and CPO with modifications and this letter constitutes his decision to that effect.

2. The Trunk Road Order, SRO and CPO will, respectively, authorise:

- (i) that the new road to connect the amended A249 Trunk Road to the amended A249 County Road, which is proposed to be constructed by HE, shall become a trunk road;
- (ii) HE to improve highways, stop up highways, construct new highways, stop up private means of access to premises and provide new means of access to premises all on or in the vicinity of the A249 Trunk Road which Highways England proposes to construct as referred to in the above Trunk Road Order; and the A249 Trunk Road which Highways England proposes to improve from a point 46 metres west of Maidstone Road junction with the A249 Sittingbourne Road to a point 1240 metres north of Maidstone Road junction with the A249 Sittingbourne Road.
- (iii) HE to purchase compulsorily the land and new rights over land for the purposes of:
  - (a) the construction of highways which shall become trunk road in pursuance of the above Trunk Road Order; (b) the improvement of the A249 Trunk Road; (c) the improvement of slip roads connecting the M2 special road to the A249 Stockbury Roundabout; (d) the construction and improvement of highways to connect the above mentioned Trunk Road with the existing road system at Stockbury Roundabout; (e) the construction and

improvement of highways and the provision of new means of access to premises in pursuance of the above Trunk Road Order; (f) use by the acquiring authority in connection with the construction and improvement of highways and the provision of private means of access to premises as aforesaid; and (g) mitigating the adverse effect which the existence or use of the highways proposed to be constructed or improved will have on the surroundings thereof.

### MODIFICATIONS

3. The Secretary of State will make the modifications to the SRO as agreed in the Inspector's report at paragraph 10.311 and to the CPO at 10.318 and as detailed in the annex to this letter. The annex also includes additional minor, technical modifications to the SRO and the CPO, which have been agreed to by HE.

### CONSIDERATIONS FOR DECISION

4. As statutory and non-statutory objections remained outstanding to the Orders it was decided that concurrent Public Local Inquiries should be held for the purposes of hearing those objections. The Inquiries were to commence on the 28 April 2020 with Ian Jenkins BSc (Hons) CEng MICE MCIWEM as the independent Inspector, but subsequent to a pre-inquiry meeting held by him on 7 January 2020, due to the emerging Covid 19 pandemic the Inquiry did not take place. In September 2020 Karen L Ridge LLB(Hons) MTPL Solicitor was appointed by the Secretary of State as the independent Inspector and it was determined that the Inquiry would comprise a virtual event which would take place with all parties connecting via the Teams platform. A pre-Inquiry meeting via the Teams platform was held 29 September 2020 and the virtual Inquiry was held on 9-13 and 16-18 November and 1 & 3 December 2020.

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

In relation to the Trunk Road Order, namely that:

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

In relation to the SRO, 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 CPO, 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 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

6. The Secretary of State has considered carefully all the objections to, and representations about, the Orders, including alternative proposals put forward.

7. The Secretary of State agrees with the Inspector's conclusion at paragraph 10.199 that, given the statutory tests and considerations which are relevant to these Order, as set out at paragraph 5 above, that the Orders can be determined before any decision is made with regard to the request for compensation made by Ms. Miller on behalf of Kent Downs Area of Outstanding Natural Beauty.

8. The Secretary of State notes that changes recommended by the Inspector to the Outline Environmental Management Plan and the Register of Environmental Actions and Commitments have been accepted by HE (paragraph 10.220) and the Secretary of State agrees with the Inspector that these measures should be implemented.

9. The Secretary of State agrees with the Inspector that the overbridge would be an addition to, rather than an alternative to the promoted scheme (paragraph 10.297). The Secretary of State also agrees with the Inspector that the addition of an overbridge would cause a delay to the scheme being implemented and therefore should not be considered as part of this scheme (paragraph 10.298). The Secretary of State is therefore satisfied that the Orders can be determined and the case for an overbridge, and any related applications/orders, can be considered separately.

10. The Secretary of State is satisfied that the Trunk Road Order is needed to authorise the trunking of the new road to connect the A249 Trunk Road to the A249 amended County Road and that HE, as a strategic highways company, shall become the highway authority for that trunk road from that date. In agreement with the Inspector's conclusions at paragraph 10.308, the Secretary of State is satisfied, having taken into consideration local and national planning policy, including agriculture, that the scheme would be in the public interest and that the adverse environmental impact would be proportionate to the benefits of the scheme.

11. The Secretary of State notes that provision is being made for statutory undertakers' apparatus and that liaison between HE and the companies affected is on-going (paragraph 10.310). The Secretary of State agrees with the Inspectors conclusions at paragraph 10.312 that where a highway or a private means of access to premises is to be stopped up, that the modified SRO would provide a reasonably convenient alternative route and that either no access is reasonably required or another reasonably convenient means of access is available or will be provided.

12. The Secretary of State has carefully considered whether the purposes for which the CPO is required sufficiently justify interfering with the human rights of those with an interest in the CPO and is satisfied that they do. In particular, consideration has been given 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 paragraph 10.319 and is satisfied that in confirming the CPO a fair balance has been struck between the public interest and interests of the objectors, owners and lessees.

13. The Secretary of State agrees with the Inspectors conclusions at paragraph 10.317 that HE has a clear idea of how the land to be acquired would be used and is content that there is a reasonable expectation that the necessary resources will be available to carry out the proposals within a reasonable timescale. The Secretary of State is satisfied that there are no impediments to the scheme going ahead.

14. The Secretary of State agrees with the Inspector that the MODS 1-6 are not controversial and should be made to the SRO and CPO (paragraph 10.318).

15. 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 making the Trunk Road Order and not confirming the SRO and CPO. Accordingly, the Secretary of State agrees with the Inspector's recommendations and has decided to make 'The A249 Trunk Road (A249 Trunk Road Stockbury Roundabout Improvements) Order 2021' and to confirm 'The Highways England (A249 Trunk Road Stockbury Roundabout Improvements) (Side Roads) Order 2019' and 'The Highways England (A249 Trunk Road Stockbury Roundabout Improvements) Compulsory Purchase Order 2019' as modified by him in accordance with paragraph 3 above.

16. In making the Trunk Road Order and confirming the SRO and CPO the Secretary of State has relied on the information that HE and others have provided, as contained in the Orders and any related plans, diagrams, statements or correspondence, as being factually correct. Making/confirmation is given on this basis.

## COMPENSATION

17. 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 CPO will need to be approached by HE 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

18. A copy of this letter and accompanying annex, 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.

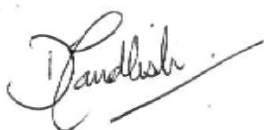
19. Please arrange for a copy of the Inspector's report and of this letter, including its annex, to be made available for inspection at <https://highwaysengland.co.uk/projects/m2-unction-5-improvements/> and <https://www.programmeofficers.co.uk/M2J5/M2J5CDS6NOV.pdf>.

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.

## RIGHT OF CHALLENGE

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



**DAVE CANDLISH**

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