



National Highways

By email to: *Raluca.mitu@nationalhighways.co.uk*

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Your Ref: 551514/SRO/DFT

Our Ref: NATTRAN/HE/HAO/249

Date: 8 June 2023

Dear Ms. Mitu,

THE HIGHWAYS ENGLAND (M27 SOUTHAMPTON JUNCTION 8 IMPROVEMENT SCHEME – M27 JUNCTION 8 AND WINDHOVER ROUNDABOUT) (SPECIAL ROAD) (SIDE ROADS) ORDER 2021 ("THE SRO")

THE HIGHWAYS ENGLAND (M27 SOUTHAMPTON JUNCTION 8 IMPROVEMENT – M27 JUNCTION 8 & WINDHOVER ROUNDABOUT) (SPECIAL ROAD) COMPULSORY PURCHASE ORDER 2021 ("THE CPO")

SECRETARY OF STATE'S DECISION - SRO AND CPO NOT TO BE CONFIRMED

1. I refer to National Highways (formerly Highways England) application for confirmation of the above-named Orders, which was submitted in July 2021. The Secretary of State for Transport ("the Secretary of State") has decided that the Orders will not be confirmed at present. This letter constitutes his decision to that effect.
2. The Orders had been made by National Highways to improve congestion, journey time reliability, resilience, and safety at the M27 J8 Windhover Roundabout.

CONSIDERATIONS FOR DECISION

3. 7 objections were received to the Orders, therefore the Secretary of State arranged for a joint Public Inquiry to be held at Highpoint Centre, Bursledon Road, Thornhill, Southampton between 10th May 2022 and 17th June 2022, before I Jenkins BSc CEng MICE MCIWEM, an Inspector appointed by the Secretary of State to hear those objections and representations. The main grounds of objection to the proposals were that other junctions nearby also needed improvements, the delivery

of the link road, flood risk and that there wasn't a compelling case in the public interest.

4. 3 objections were outstanding at the opening of the Inquiry and a further 2 representations supporting the scheme had been received. The Inspector has considered all the outstanding objections to and representations about the Orders both as made in writing and presented orally at the Inquiry and has since submitted his 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.
5. The Inspector summarises the case for National Highways at IR 4.1 to 4.14. The case for supporters of the scheme is summarised at IR 5.1 to 5.2. The case for the objectors is summarised at IR 6.1 to 7.2, including National Highways' response to individual objections. The Inspector's conclusions are detailed at IR 8.1 to 8.4 whilst his recommendations are given at IR 9.0. In light of his conclusions the Inspector has recommended that the Orders not be confirmed.
6. Following the close of the Inquiry, correspondence has been received from both National Highways and Mr Keeling's (one of the objectors) representatives. It is the Secretary of State's view that this correspondence reflects matters already dealt with in the course of the Inquiry and would not materially alter this decision. It will therefore not be commented on further.
7. The Secretary of State has considered carefully all the objections to, and representations about, the Orders, including alternative proposals put forward. He has considered the Inspector's report and has also considered the Orders in line with relevant guidance set out in *Guidance on Compulsory Purchase Process and The Criche Down Rules* and *The Highways Act 1980* in reaching this decision.

CONCLUSION

8. The Secretary of State has 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 isn't satisfied that they do. In particular, the Secretary of State has considered the provisions of Article 1 of The First Protocol to the European Convention on Human Rights and the Human Rights Act 1998. In this respect, the Secretary of State isn't satisfied that confirming the CPO in its current form shows that a fair balance has been struck between the public interest and interests of the objectors, owners and lessees. Namely, it hasn't been clearly demonstrated that all of the land is required for the Orders to be properly implemented, including the land owned by one of the objectors, Mr Keeling, where an intended flood basin was to be situated.
9. The Secretary of State considers that the evidence provided by Mr Keeling in relation to flood data modelling, shows that the long-term risks of flooding may not be sufficiently addressed and that National Highways have not sufficiently proved that

the flood basin on Mr Keeling's land is necessary. This is highlighted at IR 8.2.4.46 to IR 8.2.4.50. The Secretary of State believes this is a convincing reason not to confirm the Orders at this time.

10. Having reflected on all aspects of the matter, the Secretary of State is satisfied there is a compelling case which would justify not confirming the CPO. Consequently, it would not be correct to confirm the SRO, as both Orders are intrinsically linked. As such, the Secretary of State agrees with the Inspector's conclusions and recommendations and has decided NOT to confirm 'The Highways England (M27 Southampton Junction 8 Improvement Scheme – M27 Junction 8 And Windhover Roundabout) (Special Road) (Side Roads) Order 2021' and 'The Highways England (M27 Southampton Junction 8 Improvement – M27 Junction 8 & Windhover Roundabout) (Special Road) Compulsory Purchase Order 2021'.
11. In making this decision, the Secretary of State has relied on the information that all parties have provided, that contained in the Orders, plans, diagrams and any statements or correspondence, as being factually correct.

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. Copies will be made available on request to any other persons directly concerned.
13. Please arrange for a copy of the Inspector's report and of this letter to be made available for inspection at all places used to deposit the Orders for public inspection at making stage. These are; The offices of National Highways Company Limited, Bridge House, 1 Walnut Tree Close, Guildford, GU1 4LZ; Hedge End Library, 11 Upper Northam Road, Hedge End, Southampton SO30 4DY; and Thornhill Community Library, 328 Hinkler Road, Thornhill, Southampton, SO19 6DF. It should also be available to view on the National Highways website at <https://nationalhighways.co.uk/our-roads/south-east/m27-southampton-junction-8/>.
14. 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

15. Notice is to be published of non-confirmation of the Orders. Any person who wishes to question the validity of the Secretary of State's decision on the grounds that the Secretary of State has exceeded his powers or has not complied with the relevant statutory requirements when reaching their decision may, under the provisions of Rule 54 of the Civil Procedure Rules, do so by application to the High Court. Such application must be made within six weeks of publication of the notice that the Orders

have not been confirmed. The High Court cannot entertain such an application before publication of the notice that the Secretary of State has not confirmed the Orders.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dave Candlish', with a long horizontal stroke extending to the right.

Dave Candlish
Authorised by the Secretary of State
to sign in that behalf