



GOVERNMENT OFFICE
FOR THE SOUTH EAST

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Our Ref:
Your Ref:

23 March 2005

Dear Sir/Madam

**HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981**

M40 JUNCTION 4 (HANDY CROSS) & A404 IMPROVEMENT SCHEME

1. I am directed by the First Secretary of State and the Secretary of State for Transport ("the Secretaries of State") to refer to the concurrent public local inquiries ("the inquiries") held at the Council Chamber, Wycombe District Council, Queen Victoria Road, High Wycombe, Buckinghamshire, on 30 November, and 1 and 2 December 2004 before Mr Neil Taylor BSc, MICE, MIHT, an independent Inspector appointed by the Secretaries of State, to hear objections to, and representations about, the following draft Scheme and Order:-

The M40 Motorway Junction 4 (Handy Cross) Connecting Road Scheme 200 (the "Scheme") and,
The M40 Motorway Junction 4 (Handy Cross) Compulsory Purchase Order (No) 200 (the "CPO").

2. The draft Scheme and CPO, would if made, relate to a proposal to improve the M40 at junction 4 with the A404 at Handy Cross to relieve congestion and separate long distance and local traffic movements by the construction of a new road, additional lanes and a five lane "cross link" to assist traffic movements between the M40 and A404 south of the junction.

THE INSPECTOR'S REPORT

3. A copy of the Inspector's report is enclosed. References in this decision letter to this report are indicated by the abbreviations "IR".



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4. The Inspector concluded at IR 8.1 to 8.40 in favour of the published proposal and recommended at IR 9.1 that the Scheme be made as published in draft and the CPO made with modifications.

THE DECISION OF THE SECRETARIES OF STATE

5. The Secretaries of State have carefully considered the objections, alternative proposals, representations and expressions of support made, both orally and in writing, together with the Inspector's report. They have also considered the requirements of local and national planning, including the requirements of agriculture.

6. The Secretary of State for Transport is satisfied that the environmental impact assessment undertaken for the proposed scheme meets the requirements of the European Community Directive 85/337/EEC ("the Directive") as amended by EC Directive 97/11. He has considered the Environmental Statement published pursuant to section 105A of the Highways Act 1980, which implements the requirements of the Directive, and all the opinions expressed in relation to that statement before a decision is taken whether to proceed with this improvement scheme.

7. The Secretaries of State are satisfied that the published highway improvement scheme accords with the aims and objectives of the Government's White Paper "A New Deal for Transport: Better for Everyone" and note that it is included in the Government's Targeted Programme of Improvements.

8. Having regard to the above matters, the Secretaries of State agree with the Inspector's conclusions at IR 8.1 to 8.40 and have decided to accept his recommendation at IR 9.1 that the Scheme be made, and the CPO be modified as detailed in DL 8.32 and, that so modified, be made. However, in taking this decision they have also considered the following additional matters contained in paragraphs 9 to 15 below.

Effect of scheme on Green Belt

9. The Secretaries of State note the Inspector's conclusions at IR 8.13 to 8.15 and agree that, in terms of Planning Policy Guidance Note Number 2, the published improvement scheme affects land designated as Green Belt, and that this would constitute inappropriate development in a small part of the Metropolitan Green Belt. The Secretaries of State further agree that this can be justified only if there are very special circumstances whereby the harm is clearly outweighed by other considerations.

10. The Secretaries of State are satisfied that the Inspector in considering this matter applied the appropriate tests by considering the need and benefits of the scheme against the harm and impact it would have on the character of the Green Belt having regard to the proposed mitigation measures. The Secretaries of State, therefore, agree with, and accept, the conclusion reached by the Inspector in IR 8.15 that, for the reasons he gives, very special circumstances exist in this case which justify allowing this development.



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Chiltern Area of Outstanding Natural Beauty (AONB)

11. With regard to the effect of the scheme on the AONB, the Secretaries of State accept the Inspector's conclusion at IR 8.12 that the impact on the AONB is limited to the edge of the area, and that the benefits of the scheme outweigh the effect on the AONB. Furthermore, they take the view that this impact will be further minimised once the proposed landscaping has matured.

Non-motorised user provision - improvement for cyclists

12. The Secretaries of State note the Inspector's recommendation at IR 8.38 that the Highways Agency seeks, with the Buckinghamshire County Council, a means of permitting cyclists to ride on that part of the route from the A404 Marlow Hill to the crossing point on the east bound exit slip of the M40. In considering this matter, the Secretaries of State have taken into account that among the stated objectives of the improvement scheme is the need to improve the safety for all road users and to improve the accessibility for pedestrians and cyclists (non-motorised traffic).

13. However, the Secretaries of State have also noted from evidence presented at the inquiry (IR 7.15) that the pedestrian and cycle surveys show there is low use in this area. The Secretaries of State are, therefore, satisfied from the evidence before them that the published improvement scheme would provide a safe route for pedestrians and cyclists having regard to the likely level of use, and to the proposed signalling arrangement incorporating short delays to ensure that traffic is stationary before pedestrians and cyclists cross the carriageway.

14. Nevertheless, the Secretaries of State have noted (IR 4.21 and 8.37) that the published proposals would require cyclists to dismount at a number of points when using the proposed route. To address this concern, the Secretaries of State will ask the Highways Agency to consider, in consultation with Buckinghamshire County Council, whether it is possible to upgrade that part of the scheme. In any event, the proposed improvement scheme will be subject to further safety audit before it proceeds to construction.

Plots 1/3, 1/5, 1/6, 1/7 and 1/8 in CPO

15. The Secretaries of State have noted the concerns of Mr Morris regarding plots 1/3, 1/5, 1/6, 1/7 and 1/8 in the CPO and accept the Inspector's conclusions at IR 8.21 to 8.32 in regard to these matters. In respect of plot 1/6 in particular, the Secretaries of State are satisfied that the provisions of section 239 of the Highways Act 1980 allow for the acquisition of land for the provision of buildings or facilities to be used in connection with the construction of the proposed scheme. In accepting the Inspector's conclusion in respect of plot 1/6, the Secretaries of State are of the opinion that this land for the contractor's depot is required in connection with carrying out the works authorised by the Scheme.



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SCHEME AND ORDER TO BE MADE

16. In the light of the above, the Secretary of State for Transport will make shortly:

- (i) the Scheme as published in draft; and,
- (ii) the CPO, subject to the modifications detailed in IR 8.32.

17. Public Notice will be given when the Scheme and CPO are made. Any person who wishes to question their validity, or of any particular provision contained in them, on the grounds that the Secretary of State for Transport has exceeded his powers, or has not complied with the relevant statutory requirements in making the Scheme and CPO, may do so by application to the High Court. Such application must be made within six weeks of publication of notice that the Scheme and CPO have been made.

COMPENSATION

18. After the CPO has been made, the owners and occupiers of land included in the made Order will be approached about the amount of compensation payable to them in respect of their interest in the land. If the amount cannot be agreed with the Highways Agency's valuer the matter may be referred for determination to the Lands Tribunal under the Lands Tribunal Act 1949 and the Land Compensation Act 1961 and the Land Compensation Act 1973.

AVAILABILITY OF INSPECTOR'S REPORT

19. This letter, together with a copy of the main report and Addendum report, has been sent to those who objected, and to any other person, who appeared at the inquiries and asked to be notified of the decision. Any person who is entitled to be supplied with a copy of the Inspector's report may apply to the Secretary of State for Transport within six weeks of receipt of this letter to inspect any document appended to the main report. Any such application should be made to Mark Fulleylove (Tel: 01483 882412) at this office. Applications should state the date and time (within normal office hours) when it is proposed to make the inspection. At least three days notice should be given if possible.

Yours faithfully

Chris Farthing
Thames Valley Transport – Team Leader