



GOVERNMENT OFFICE  
FOR THE SOUTH EAST

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26 September 2005

*Addressee as on envelope*

Dear Sir/Madam

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

**A2 WIDENING (PHASE 2) PEPPERHILL TO COBHAM**

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 inquiries ("the inquiries") held at the Istead Rise Community Centre, Worcester Close, Istead Rise, Gravesend, Kent, for 5 sitting days on 26 May and 2, 3, 8 and 9 June 2005, before Mr R M Barker, BEng(Hons), CEng, MICE, FIHT, an independent Inspector appointed by the Secretaries of State, to hear objections to, and representations about, the following draft Orders:-

The A2 Trunk Road (Pepperhill to Cobham and Slip Roads) Order 20 ;  
The A2 Trunk Road (Pepperhill to Cobham)(Detrunking) Order 20 ;  
The A2 Trunk Road (Pepperhill to Cobham Side Roads) Order 20 ;  
The A2 Trunk Road (Pepperhill to Cobham) Compulsory Purchase Order (No ) 20 ; and  
The A2 Trunk Road (Pepperhill to Cobham and Slip Roads) Supplementary Order 20 .

2. The draft Orders relate to widening 6.5km of the A2 to four lanes in each direction between Pepperhill Junction, some 6km to the east of the M25 Junction 2, and Cobham Junction, approximately 2km west of the start of the M2. A new 4.5km section of the A2 from Pepperhill to Marling Cross would be constructed to the south of the existing A2 to follow closely the line of the Channel Tunnel Rail Link.

## THE INSPECTOR'S REPORT

3. A copy of the Inspector's report is enclosed. In this letter reference to paragraph numbers in the Inspector's report are indicated by the abbreviation "IR". The Inspector concluded overall (IR 9.1 to 9.51) in favour of the published proposals subject to the substitution of the modified site plan to the published Side Roads Order (IR 9.48). He recommended at IR 10 that the five Orders be made accordingly.

## THE DECISION OF THE SECRETARIES OF STATE

### Legal Submission

4. The Secretaries of State have carefully considered the legal submission made on behalf of Mr Simon Privett, the owner of Tollgate Service Station North ("TSSN") (IR 3.1 to 3.5), the Highways Agency's response (IR 3.6 to 3.19) and the Inspector's conclusions at IR 9.2 to 9.7, on the interpretation of the term "another reasonably convenient route" in the provisions of section 14(6) of the Highways Act 1980 in respect of the stopping-up of the A2 in the Side Roads Order ("SRO").

5. It is not disputed that before an Order authorising the stopping-up of a highway can be made, the provisions in section 14(6) require the Secretary of State for Transport to be satisfied that "another reasonably convenient route is available, or will be provided, before the highway is stopped-up". The published SRO requires a length of the existing A2 Watling Road, between Pepperhill and Marling Cross, which includes that section that currently passes alongside the TSSN, to be stopped-up. It is proposed that a new 4-lane dual carriageway will be provided for the stopped-up section of the A2 Watling Street, a short distance to south of the existing A2.

6. The test to be applied in this matter is for the Secretary of State for Transport to be satisfied that for route users of that section of the existing A2 Watling Street scheduled to be stopped-up in the published SRO, the proposed new replacement dual carriageway is "another reasonably convenient route" to users of the closed route. In applying this test, the degree of contribution made to the Cobham North Services as a whole by TSSN in meeting the need for trunk road services expected by users of the A2, has also been taken into account. However, any inconvenience induced by the additional distances to the TSSN on local roads is alone not, a material consideration in deciding this matter. In deciding this matter, the Inspector's conclusions have been noted, and accepted, for the reasons he gives at IR 9.3 to 9.5, and the Secretary of State for Transport is satisfied that the published proposal complies with the provisions in section 14(6) of the Highways Act.

7. The Secretaries of State have considered the High Court judgment, *Vasiliou v Secretary of State for Transport and another* [1991] 2 All ER 77, cited in support of Mr Privett's submission, and take the view that

because the case is concerned with different statutory provisions, it has no legal significance in the context of this decision.

#### Access arrangements to TSSN

8. The Secretaries of State have noted that a subsidiary point arose concerning the eastern private means of access to the TSSN, and that the SRO, as originally proposed, had the effect of partially reducing the width of this access (IR 3.4 and 9.6). However, it is further noted that a subsequent agreement was reached with the property owner to modify the access by increasing the width to around 9 metres. This requires a minor modification to reduce the area of road to be stopped-up, as indicated on Site Plan 2A Rev, to allow turning manoeuvres for all vehicles, and can be accommodated without any modification to the published draft SRO, or require any additional landtake. The Secretaries of State have noted, and accept, the Inspector's conclusions at IR 9.7 and 9.48 that this revised plan should replace the original site plan 2A appended to the SRO. For clarification, at IR 3.9, 3.10 and 8.20 the Inspector is not correct in saying that drawing number 205053/02 Rev B illustrates the agreed position regarding the revised access arrangement to the TSSN. The revised arrangement will be accommodated through the substituted Site Plan 2A Rev. The Secretaries of State also accept Inspector's conclusions at IR 9.25 to 9.29, for the reasons he has given, on the proposed alternative access put forward for the TSSN, and agree that this does not merit further consideration.

#### Effect of scheme on Green Belt

9. The Secretaries of State note the Inspector's conclusions at IR 9.9 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 the Green Belt. 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 conclusions reached by the Inspector in IR 9.9, for the reasons he gives, that very special circumstances exist in this case to justify this development. In reaching this decision, the Secretaries of State have taken into account that when the existing A2 carriageway between Pepperhill and Marling Cross becomes redundant as part of the proposals, this area

would be laid out as a new linear park with extensive planting of trees, shrubs, wildflowers and grassland. This would assist with the mitigation of any adverse effects of the new road.

#### Impact on Kent Down 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 9.39 that the impact on the AONB is limited to a very small part of the Shorne and Ashenbank Woods SSSI within the AONB, 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 woodland habitat and other associated off-site mitigation measures referred to at IR 6.37 have matured.

#### The Scheme

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

13. 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 taking a decision on whether to proceed with this widening scheme.

14. The Secretaries of State are satisfied that the published scheme accords with the aims and objectives of the Government's Transport White Paper "A New Deal for Transport: Better for Everyone" and note that the scheme is included in the Government's Targeted Programme of Improvements with its commitment to funding the scheme this brings with it.

15. Having regard to the above matters, the Secretaries of State agree with the Inspector's conclusions and are satisfied that they cover all the material considerations relevant to the scheme as a whole. Accordingly, they accept his recommendations based on those conclusions and have decided to proceed with the published scheme by making the published Orders, subject to the substitution of the revised plan to the SRO.

## ORDERS TO BE MADE

16. In the light of the above, the Secretary of State for Transport will shortly make the Orders listed in paragraph 1 above as recommended by the Inspector. He is satisfied that the substitution of the revised plan to the SRO will not make a substantial change to the Order for the purposes of paragraph 8(3) of Schedule 1 of the Highways Act 1980.

17. Public Notice will be given when the Orders have been 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 Orders may, under the provisions of Schedule 2 of the Highways Act 1980 and section 23 of the Acquisition of Land Act 1981, do so by application to the High Court. Such application must be made within six weeks of publication of notice that the Orders have been made.

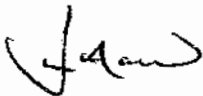
## COMPENSATION

18. After the Compulsory Purchase Order has been made the owners and occupiers of the 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 Tribunals Act 1949 and the Land Compensation Acts 1961 and 1973.

## AVAILABILITY OF INSPECTOR'S REPORT

19. A copy of this letter and the Inspector's 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 Secretaries of State within six weeks of receipt of this letter, to inspect any document appended to the report. Any such application should be made to Mandy Horrell, Government Office for the South East, tel: 01483 882951, at this office and 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



John Haward  
Director