

Department for Transport

Local Authority Orders

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Your Ref. PAJE/gS/04008004

Our Ref. DN5077/55/7/03
DN5077/60/1/06

Date 12 February 2004

Sir

HIGHWAYS ACT 1980

ACQUISITION OF LAND ACT 1981

THE WARWICKSHIRE COUNTY COUNCIL (A4071 RUGBY WESTERN RELIEF ROAD)
(SIDE ROADS) ORDER 2002 ("the SRO")

THE WARWICKSHIRE COUNTY COUNCIL (A4071 RUGBY WESTERN RELIEF ROAD)
COMPULSORY PURCHASE ORDER 2002 ("the CPO")

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to refer to the concurrent Public Local Inquiries held at The Council Chamber, Town Hall, Evreux Way, Rugby, CV21 2LA on 29, 30 April 2003, 1, 2 May 2003 before Mr T Millington, CEng MICE DIP TE an independent Inspector appointed by the Secretary of State to hear objections to and representations about the above named Orders submitted by Warwickshire County Council ("the Council").

2. The SRO and CPO if confirmed by the Secretary of State would, respectively, authorise the Council to:-

- (a) carry out the improvement of highways, stop up highways, construct new highways, stop up private means of access to premises, and provide new means of access to premises in connection with the classified road being (i) the A4071 which the Council propose to improve from a point 120 metres south west of the access to Potford's Dam Farm to a point 50 metres west of the bridge carrying the dismantled Rugby to Leamington Railway over the A4071 near Cawston; (ii) the highway which the Council propose to construct from the latter point to a point at the junction of the A428 Lawford Road and C80 Parkfield Road; (iii) the C80 Parkfield Road which the Council propose to improve from the latter point to the existing bridge over the West Coast Mainline Railway; (iv) the highway which the Council propose to construct from the latter point to a point on the B4112 Newbold Road 60 metres south east of the south east access of Avon Valley School; and (v) the B4112 Newbold Road which the Council propose to improve from the latter point to the A426/B4112 Avon Mill roundabout; and

- (b) acquire land, and rights over land, for the purpose of the construction/improvement of the classified road described at paragraph (a) above; the construction of new highways, the improvement of highways and the provision of new means of access to premises in pursuance of the SRO; the use by the Council in connection with the above works; and to mitigate the adverse effects which the existence or use of the highways proposed to be constructed or improved will have on their surroundings.

THE INSPECTOR'S REPORT

3. At the Inquiries commencement there were five statutory objectors and two non-statutory objectors though other non-statutory objectors appeared; a written representation of objection was also submitted. The Inspector has considered all the objections to and representations about the Orders both as made in writing and presented orally at the Inquiries and has submitted his report to the Secretary of State. Two copies of that report are 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.

4. The Inspector's report summarises the case for the Council at IR 4.1 to IR 4.147. The case for the statutory objectors is summarised at IR 5.1 to IR 5.97 and for non-statutory objectors at IR 6.1 to IR 6.46. The Inspector's conclusions are detailed at IR 7.1 to IR 7.170 and his overall conclusions at IR 8.1 to IR 8.8 whilst his recommendation is given at IR 9.1.

OBJECTIONS TO THE PROPOSALS

5. The main grounds of objection to the Council's proposals were:
- The authority's scheme is unnecessary and unjustifiable though there is no objection in principle to a Western Relief Road (WRR);
 - The scheme would take far more land than is required. Additional areas proposed to be taken are excessive, unnecessary and unjustified, effectively severing and rendering useless substantial areas of retained land;
 - The proposed WRR would go outside the corridor for the relief road reserved in the Rugby Local Plan and extends into the Green Belt. There are no exceptional circumstances for the proposed road to be in the Green Belt;
 - The proposed WRR would run for about 3 km within the Green Belt and, contrary to the planners' initial promise that it would be tight to the railway fence the road, would be up to 70 metres west of the dismantled railway;
 - The alignment for the proposed WRR would be very damaging to the open countryside;
 - The design and provision of safety fencing is inadequate along part of the proposed WRR; adjacent grassland fields would be damaged when vehicles leave the new road;
 - There is inadequate provision for the access to the retained land;

- Inadequate provision has been made to cater for the additional surface water run off to the Lawford Brook with consequent flooding problems;
- The proposed means of ingress and egress to Potford's Dam Farm is opposed on road safety grounds, as is the proposed alignment for the WRR in the vicinity of this property;
- Railway land (Railtrack) is included in the Orders but is also required for the West Coast Mainline Railway modernisation scheme;
- The dismantled railway was acquired as a route for walkers and cyclists but this has not been provided;
- A scheme has already been approved for the WRR to run along the dismantled railway which involved little if any need to acquire extra land; this was abandoned because of a proposal to re-open the railway but this is no longer intended for financial reasons;
- There is no justification for the authority's unilateral decision, without Government guidance or backing, to retain the dismantled railway as a rail corridor in case it is required in the future;
- The earlier scheme, for the WRR to run along the dismantled railway, should be reverted to and thus avoid a pointless waste of land;
- More roads, bridleways and footpaths would need to be closed or diverted with increased inconvenience compared to the situation were the earlier approved scheme to be followed.

THE INSPECTOR'S CONCLUSIONS AND RECOMMENDATION

6. A full copy of the Inspector's Conclusions and Recommendation can be found at Annex A to this letter.

7. In light of his conclusions the Inspector has recommended at IR 9.1 that the SRO and CPO be confirmed only in part to extend between Leicester Road (A426) and the Avon Mill roundabout and the south side of the proposed junction between the Rugby Western Relief Road and Lawford Road (A428).

POST INQUIRIES CORRESPONDENCE

8. Following the close of the Inquiries, a letter dated 9 July 2003, from David B Bragg MA, was received concerning the reasons given by the Council for it no longer promoting a route for the WRR, part of which is aligned along the dismantled railway line, which has planning permission, because of concerns about badgers. The letter stated that, contrary to the position believed to have been submitted to the Inquiries that English Nature would not give a licence for a sett, or setts, to be disturbed by the works associated with that road construction, no direct evidence was given to the Inquiries to support that view. Mr Bragg referred to advice carried on Defra's website on the matter which stipulates that "it is against the law to refuse it (a licence) without good reason" and that it also advises "English Nature issue licences for reasons including development".

9. By letter of 30 January 2004 to the Secretary of State, Network Rail advised that they formally withdraw their objections to the SRO and CPO, provided that, following confirmation of the CPO, the Council do not seek to acquire their interest via a General Vesting Declaration, but be subject to a formal Transfer, Deed of Easement and Works Agreement between Network Rail and the Council.

THE SECRETARY OF STATE'S CONSIDERATIONS

10. 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 accepts his conclusions, subject to the comments made below. The Secretary of State has also taken matters raised in post Inquiries correspondence into account but they do not alter the decision he has arrived at to accept the Inspector's conclusions as aforesaid.

Need for the WRR and Alignment

11. The Secretary of State accepts the Inspector's conclusions that the Council has not demonstrated the case for the WRR in its entirety along the route proposed by the Orders.

Potford's Dam Link

12. The Secretary of State is satisfied that the evidence submitted does not support a strategic highway case for a pressing need now for the WRR to incorporate its Potford's Dam Link (PDL) beyond Cawston, nor is an immediate need supported by predicted traffic flows (IR 7.50 to IR 7.60). He agrees with the Inspector (IR 7.61) that there is not therefore a compelling case made for compulsory acquisition of land for the PDL provision. The Secretary of State also accepts the Inspector's conclusion that the road design and created access at Potford's Dam Farm would be of an unacceptable standard to introduce with the WRR (IR 7.71). He accepts the Inspector's view that an acceptable design standard should be possible and without significant depreciation of a WRR scheme's overall economics (IR 7.72). He sees no reason why the Council will not consider an appropriate design standard in any future route it might bring forward for the PDL, when the highway/traffic need for it can be properly justified.

Countryside Section

13. The Secretary of State agrees with the Inspector that current evidence does not substantiate that, subject to further investigations about potential effects upon an unknown number of badgers, a route alignment for the countryside section of the WRR along the dismantled railway and incorporating use of the Cawston Primary Distributor Road (PDR), as was granted planning permission by the Council in October 2000, would not provide a credible scheme (IR 7.163, IR 7.165 and IR 8.3). He accepts the Inspector's conclusion (IR 7.164) that such a route would be demonstrably better than the Council's Orders scheme in that it would be less harmful to Green Belt and countryside incursion and in respect of loss and severance of agricultural land and impact on other tourist business interests. Like the Inspector (IR 7.144 to IR 7.158 and IR 8.3) he views, following the formal notification by the Strategic Rail Authority and of Rugby Cement (RMC Aggregates) that they do not intend to reopen the dismantled railway between Rugby and Soham, that a dismantled railway route for

the WRR should be reassessed. He accepts the Inspector's view (IR 7.160 and IR 8.3) that a more certain position for proposals that might accommodate the badger situation with a disused railway route for the WRR should be established by the Council with English Nature, and for obtaining of any necessary licences, as part of that reassessment.

14. The Secretary of State notes that for traffic flow, road safety and environmental reasons, the Council does not wish to see the Cawston PDR as the permanent southern part for its WRR. However, he agrees with the Inspector that such use might be an acceptable solution in the short term (IR 7.52 to IR 7.60 and IR 8.4), until such time as a strategic case for the PDL is brought about. It would provide a secondary main access to the Cawston development, and support those of the Local Plan's objectives for the WRR of catering for internal Rugby trips between major housing development and existing housing development in the south and major employment areas in the northern part of Rugby.

WRR A426 to A428 Lawford Road

15. The Secretary of State agrees with the Inspector that there is a compelling need now for that part of the WRR north eastwards from Lawford Road to the Avon Mill roundabout, and his confirmation of the CPO to allow for it would be advantageous in facilitating an early implementation of this part of the WRR scheme (IR 8.7). The situation remains, however, that the objection by Network Rail to the proposed compulsory purchase of their land required for this part of the WRR remains outstanding, having only been conditionally withdrawn, as does a representation made to the Secretary of State under Section 16 of the Acquisition of Land Act 1981. Given this, the Secretary of State, at paragraph 18 (ii) (d), seeks further information in that regard to establish the basis upon which the Council would seek that he determine the CPO with regard to Network Rail land.

Design/Other aspects of the Council's WRR Route

16. The Secretary of State notes that the Inspector has concluded on other particular design features of the Council's Orders route that -

- (a) closure of Bilton Lane at the proposed WRR would have potential safety benefits for dependent users and particularly for school children and for cyclists, whose use of the lane would be improved by the closure. Land acquisition to accommodate visibility requirements of the Council's junction proposal would be obviated (IR 7.78 to IR 7.79);
- (b) proposed retention of footpath R126 in underpass of the WRR is unnecessary, as pedestrians (IR 7.80 to IR 7.82) would not use it;
- (c) there is no practical need for the proposed footway/cycleway arrangement of the WRR north eastwards towards Lawford Road from Bilton Lane to switch to its western side from what is otherwise an integral route proposed on its eastern side, south westwards from Bilton Lane junction (IR 7.85);
- (d) land proposed for landscaping and a balancing pond at chainage 1900 – 2080m is excessive and should be reduced consistent with a reduced pond boundary (IR 7.86 and IR 7.87);

- (e) the WRR adverse environmental impacts upon Lodge Farm holiday cottage and touring caravan site could only be partially mitigated by a noise barrier and landscaping (IR 7.88); and
- (f) land acquisition plans for a multi-purpose ecological mitigation area (between chainage 1050 and 1300m) for newts and badgers, are not considered justified and therefore do not warrant acquisition of agricultural land for those nature conservation mitigation purposes (IR 7.94 to IR 7.100).

17. The Secretary of State agrees with these of the Inspector's conclusions based on the evidence before him. However, they relate to aspects of that length of the Council's WRR southwards from Sow Brook to Potford's Dam Farm which, for other reasons covered in paragraphs 12, 13 and 14, the Secretary of State has concluded there is not a compelling case made to acquire land for that part of the Council's WRR scheme. However, he sees no reason why the Council will not give careful consideration to the Inspector's views on these particular design aspects in formulating any future proposals it might promote for a WRR from south of Lawford Road junction.

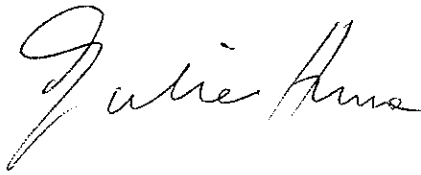
18. For the above reasons the Secretary of State is, therefore, minded to accept the Inspector's recommendation at IR 9.1 that the SRO and CPO be confirmed only in part to cover that length of the WRR between Leicester Road (A426) and the Avon Mill roundabout and the south side of the proposed junction between the WRR and Lawford Road (A428). However, before making a final determination of the Orders applications before him, the Secretary of State requests from your Council the following additional information -

- (i) whether the Council would be disposed to proceed with the WRR without that section from the improved A428 Lawford Road to Potford's Dam Farm; and
- (ii) if the Council wish to proceed as at (i) above -
 - (a) of the consequential modifications which would arise to the SRO in the vicinity of the A428 Lawford Road;
 - (b) if the modifications to the CPO, so as to retain plots 319 and 320, but exclude all land south westwards from and including the adjacent plot 306 (IR 8.8) are compatible with the land requirements for any amended WRR and related SRO scheme to terminate just south of the A428 Lawford Road;
 - (c) of the implications, in terms of planning permission/an amendment to planning permission, for that part WRR scheme; and
 - (d) if, and in the light of the conditional withdrawal of Network Rail's objection mentioned in paragraph 9, agreement (IR 8.7) in those terms is to be entered into by the Council with Network Rail whereby the matter of Network Rail's objection, and representation under Section 16 of the Acquisition of Land Act 1981 made to the Secretary of State, might be expected to be resolved.

19. I am to ask that the advice about their proposals, which the Council submits to the Secretary of State, be copied to those persons who have submitted objections or representations to any of the matters which were placed before the Inquiries so that they may be aware of the Council's intentions. In notifying the parties they should be afforded the opportunity, if they so wish, to submit within 21 days of receipt of the Council's intentions any comments to the address at the top of this letter.

20. A copy of this letter, together with a copy of the Inspector's report has been sent to objectors, their representatives, and the persons who appeared and made representations at the Inquiries. Copies will be made available on request to any other persons directly concerned. Please arrange for a copy of the Inspector's report and of this letter to be made available for inspection at the offices of the Council and at all other places used to deposit the Orders for public inspection at making stage. 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. Those documents, photographs or plans, are retained at this office, and will be made available at a local place of inspection.

I am Sir
Your obedient Servant

A handwritten signature in cursive script, reading "Julie Hume". The signature is written in dark ink and is positioned above the printed name and title.

JULIE HUME
Authorised by the Secretary of State
to sign in that behalf

