

- [REDACTED]
Projects Manager – Major Capital Programme
Kent County Council
Invicta House, County Hall
Maidstone
Kent
ME14 1XX

National Transport Casework Team

Tyneside House
Skinnerburn Road
Newcastle Business Park
Newcastle upon Tyne
NE4 7AR

Direct line: [REDACTED]

www.gov.uk

Email: nationalcasework@dft.gov.uk

Your Ref:

Our Ref: NATTRAN/SE/HAO/298

Date: 19 February 2025

Dear [REDACTED]

THE KENT COUNTY COUNCIL (A28 STURRY LINK ROAD) (SIDE ROADS) ORDER 2023 (“the SRO”)

THE KENT COUNTY COUNCIL (A28 STURRY LINK ROAD) (COMPULSORY PURCHASE) ORDER 2023 (“the CPO”)

SECRETARY OF STATE’S DECISION – ORDERS TO BE CONFIRMED WITH MODIFICATIONS

1. I refer to your application, submitted on behalf of Kent County Council (“the Council”), for confirmation of the above-named Orders. The Secretary of State for Transport (“the Secretary of State”) has decided to confirm the Orders with modifications and this letter constitutes her decision to that effect.
2. The confirmed SRO and CPO will, respectively, authorise the Council to:
 - i. improve highways, stop up private means of access and provide new means of access, all on or in the vicinity of the route of the classified road, being the highway the Council are proposing to construct between A28 Sturry Road, approximately 100 metres east of Water Treatment Works and the north side of the Ashford to Ramsgate railway line, approximately 395 metres east of Broad Oak railway level crossing; and
 - ii. purchase compulsorily the land for the purposes of the classified road described at i) above; the improvement of A28 Sturry Road; improvement of Shalloak Road; use by the Highway Authority in connection with the construction and improvement of the highways aforesaid; and access by the Highway Authority over land to the east of Broad Oak road to construct, inspect and maintain the works.

MODIFICATIONS

3. The Secretary of State will make the modifications to the Orders as recommended by the Inspector namely:

- In relation to the SRO, the improvement of Broad Oak level crossing is reduced from a distance of 110 metres to a distance of 107 metres and site plan Drawing No. 008469-PCL-LSI-ZZ-DR-CH-0001 Rev P01 is replaced by site plan Drawing No. 008469-PCL-LSI-ZZ-DR-CH-0001 Rev P02. In Article 2 “reference letter” to be modified to “reference number”.
- In relation to the CPO, Plot 4 is deleted; Plot 11 is reduced from 900 square metres to 737 square metres and new rights plots, Plot 11a (15 square metres) and Plot 11b (148 square metres), are created; Plot 14 is amended from a title plot to a rights plot; Plots 14 and 15 have the reference to ‘and bed thereof’ deleted; Plot 22 is reduced from 552 square metres to 550 square metres and Map SLR_CPO_15 dated 08.11.2023 is replaced by SLR_CPO_17-1 dated 20.09.24.
- The rights to be acquired in new Plot 11a are: All rights necessary for the acquiring authority to use the land as a temporary working area for construction of the works over 15 square metres of grassland (Perryfield Farm); south of river (Grand Stour and west of Maytree Canterbury Garden Centre, Sturry, Canterbury, Kent.
- The rights to be acquired in new Plot 11b are: All rights of flying freehold airspace above the underside of proposed bridge structure for construction of and operation of the works and all rights necessary for the acquiring authority below the proposed bridge structure to make drainage connections as part of the works and use the land as a temporary working area and protect maintain and inspect the works over 148 square metres of grassland, trees and shrubbery (Perryfield Farm); south of river (Great Stour) and west of Maytree Canterbury Garden Centres, Sturry, Canterbury, Kent.
- The rights to be acquired in amended Plot 14 are: All rights of flying freehold airspace above the underside of proposed bridge structure for construction of and operation of the works and all rights necessary for the acquiring authority below the proposed bridge structure to use the land as a temporary working area and protect maintain and inspect the works over 179 square metres of river (Great Stour), Sturry, Canterbury, Kent.

4. The Secretary of State considers that no further formal consultation is necessary. The modifications are unlikely to prejudice the interests of anyone and that they can be made.

CONSIDERATIONS FOR DECISION

5. As 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. An independent Inspector, Andrew Walker MSc BSC(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP, was appointed by the Secretary of State and Inquiries were held on 1–2 October 2024 at the Guild Hall, St Peters Street, Canterbury, Kent CT1 2 DB. The Inspector reports that at the opening of the Inquiries there were 2 remaining objections to the CPO and no remaining objections to the SRO. The outstanding objections to the CPO were from Mr and Mrs Horsham and from Network Rail and whilst Network Rail did not object to the SRO the Inspector has addressed the concerns that they raised in respect of the SRO.

6. The Inspector considered all representations and objections 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 *The Highways Act 1980* and *Guidance on Compulsory purchase process and The Crichel Down Rules*, in reaching her decision on the Orders. References in this letter to the Inspector's report are indicated by the abbreviation "IR" followed by the paragraph number in the report.

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; and
- 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.

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.

POST INQUIRIES CORRESPONDENCE

7. Following the close of the Inquiries the following correspondence was received from Dentons UK and Middle East LLP on behalf of Network Rail: In a letter dated 22 January 2025 Network Rail withdrew their objections to the CPO. In an email dated 04 February 2025 they confirmed that they also withdrew their representations made under section 16 of the Acquisition of Land Act 1981 and their representations made regarding the SRO.

CONCLUSION

8. The Secretary of State has considered carefully all the objections to, and representations about the Orders. The Secretary of State agrees with the Inspector's conclusion at IR 5.1 (bullet point 9) and is satisfied that in relation to the stopping up of private means of access to premises, other reasonably convenient means of access to premises would be provided.

9. 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 IR 5.1 (bullet point 2) and with the modification to reduce the area of Plot 11 (Council's option 1) is satisfied that in confirming the CPO a fair balance has been struck between the public interest and the interests of those with an interest in the land (IR 5.2).

10. The Secretary of State has carefully considered the public sector equality duty contained in section 149 of the Equality Act 2010 and agrees with the Inspector (paragraph IR 5.1 (bullet point 7)) that the Council has had due regard to the need to discharge its obligations under the provisions of this legislation and has paid careful attention to any impacts identified in the Equality and Climate Impact Assessment on protected characteristics.

11. The Secretary of State is in agreement with the Inspector's conclusions that the Council has a clear idea of how the land to be acquired will be used (IR 5.1 (bullet point 3)) and that it has taken reasonable steps to acquire all of the land and rights included in the CPO by agreement (IR 5.1 (bullet point 6)).

12. The Secretary of State is in agreement with the Inspector that the necessary resources to implement the scheme are likely to be available for delivery of the scheme within a reasonable timescale (IR 5.1 (bullet point 4)). Furthermore, the Secretary of State notes the Council's case at IR 3.20 and IR 3.21 with regard to planning and is satisfied that the scheme, for which the Order land is required, has the benefit of a granted planning permission and that the Council is progressing the discharge of pre-commencement planning conditions and approvals and consents agrees with the Inspector (paragraph IR 5.1 (bullet point 5)) that the scheme is unlikely to be blocked by any impediment to implementation.

13. The Secretary of State notes the Inspector's conclusion at IR5.1 (bullet point 8) that the Orders will not cause any serious detriment to the carrying on of a railway undertaking, increase vehicular traffic over any level crossing or create a public safety risk

14. 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 confirming the Orders. Accordingly, the Secretary of State agrees with the Inspector's recommendations and has decided to confirm, as modified by her, 'The Kent County Council (A28 Sturry Link Road) (Side Roads) Order 2023' and 'The Kent County Council (A28 Sturry Link Road) Compulsory Purchase Order 2023'.

15. In confirming the Orders, the Secretary of State has relied on the information that the Council and others have provided, as contained in the Orders and any related plans, diagrams, statements, or correspondence, as being factually correct. Confirmation is given on this basis.

16. Where not otherwise stated in this letter, the Secretary of State can be taken to agree with the findings, conclusions and recommendations set out in the Inspector's report and the reasons given for the Secretary of State's decision are those given by the Inspector in support of the conclusions and recommendations.

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 the Council 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, 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 to be made available for inspection <https://www.kent.gov.uk/roads-and-travel/road-projects/planned-road-projects/sturry-link-road> 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 the address shown on this letter 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 confirmation of the Orders. Any person who wishes to question the validity of the confirmed Orders, or any particular provision contained therein, on the grounds that the Secretary of State has exceeded her powers or has not complied with the relevant statutory requirements in 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 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 confirmed the Orders.

Yours sincerely

A large black rectangular box redacting the signature of the Secretary of State for Transport.A small black rectangular box redacting the name of the authorised signatory.

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