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Our Ref: TWA 8/1/3
Your Ref: SMcC/JH

19 March 2013

Dear Sirs,

**PLANNING ACT 2008
APPLICATION FOR THE PROPOSED LANCASHIRE COUNTY COUNCIL
(TORRISHOLME TO THE M6 LINK (A683 COMPLETION OF HEYSHAM TO M6 LINK
ROAD)) ORDER**

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to say that consideration has been given to the report of the Examining authority, Peter Robottom MA(Oxon) DipTP MRTPI MCMI, who conducted an examination into the application made by Lancashire County Council ("LCC") on 6 December 2011 for the Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order ("the Order") under sections 37, 114, 115, 117(4), 120 and 122 of the Planning Act 2008 ("the 2008 Act").

2. The examination of the application began on 3 April 2012 and was completed on 20 September 2012. The examination was conducted on the basis of written evidence submitted to the Examining authority and by a series of hearings held in Lancaster and Torrisholme between 10 and 26 July 2012.

3. The Order would grant development consent for the construction of a new 4.8 kilometre dual carriageway road ("the Link road") running from the junction of the A683 and A589 Morecambe Road in the vicinity of the Lancaster and Morecambe College at Torrisholme to a reconstructed junction 34 of the M6 motorway; and for associated development, including a 600 space park and ride car park at junction 34. The Order would also authorise LCC to acquire, compulsorily or by agreement, land and rights in land and to use land for the purposes of the project.

4. Enclosed with this letter is a copy of the Examining authority's report. The proposed development is described in section 2 of the report. The Examining authority's findings are set out in sections 3 to 6 of the report, and his overall conclusions and recommendation are at section 7.

Summary of the Examining authority's recommendations

5. The Examining authority recommended that the Order be made, in the form set out in Appendix E to his report.

Summary of Secretary of State's decision

6. **The Secretary of State has decided under section 114 of the 2008 Act to make with modifications an Order granting development consent for the proposals in this application.** This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and regulation 23(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

7. In a separate letter being issued today, the Secretary of State for Communities and Local Government ("the Secretary of State for CLG") has decided to give exchange land certificates in relation to the open space land required for the scheme (referred to further at paragraphs 33 and 34 below).

Secretary of State's consideration

8. The Secretary of State's consideration of the Examining authority's report is set out in the following paragraphs. All paragraph references, unless otherwise stated, are to the Examining authority's report ("ER") and references to requirements are to those in Schedule 2 to the Order, as set out in Appendix E to the ER.

Policy context

9. The Secretary of State agrees with the Examining authority that at the national level some support for the scheme can be drawn from the National Policy Statements for Ports and Nuclear Power Generation because the Link road would improve access to Heysham Port and to the site of the potential "Heysham 3" power station (ER 24-27, 52). He agrees also that, while Government transport policy does not give unequivocal support for the scheme because of the predicted increase in carbon emissions, there is nevertheless clear support for the scheme as evidenced by its inclusion in the National Infrastructure Plan as a funded project to reduce congestion and improve network performance (ER 28-30, 55).

10. The Secretary of State agrees with the Examining authority that there is clear support in the development plan for the principle of the scheme; and that, subject to consideration of whether very special circumstances exist to justify inappropriate development in the Green Belt (see paragraph 26 below), the scheme is consistent with all current development plan policies, including the North West of England Regional Spatial Strategy ("RSS") and the Lancaster Core Strategy (ER 36-45, 53-54). In this context, the Secretary of State has given limited weight to the proposed revocation of the RSS since, until it is revoked by Order under the Localism Act 2011, it remains in force as part of the development plan.

Principle of the development and alternatives

11. The Secretary of State has noted LCC's four objectives for the scheme as set out at ER 57, namely: to improve communications between Morecambe and Heysham and the M6 Motorway, including improving access to Heysham Port; to remove a significant volume of traffic from the River Lune bridges in Lancaster; to create opportunities for the enhancement of sustainable travel modes by relieving current traffic conditions; and to facilitate industrial and commercial regeneration. The Secretary of State is satisfied that these are appropriate objectives against which to assess the effectiveness of the scheme and any suggested alternatives to it. In this context, he agrees with the Examining

authority that any alternative means for meeting the first objective must be able to cater for substantial volumes of HGV trailers accessing ferries to Ireland and the Isle of Man (ER 58-66).

12. The Secretary of State agrees with the Examining authority, for the reasons given at ER 74-79, that implementation of the package of measures contained in the Lancaster District Transport Vision and Strategy report of July 2008 would not, on their own, free up sufficient road-space to provide the improved access to Heysham Port and enhanced traffic conditions in Lancaster City Centre being sought. The Secretary of State similarly agrees that neither rail nor rapid transit measures would achieve the first three objectives of the scheme (ER 80-87).

13. The Secretary of State has considered the Examining authority's findings in respect of the alternative referred to as the Lancaster Bypass Link ("LBL") which some interested parties supported. For the reasons given at ER 93-109, the Secretary of State agrees with the Examining authority that the LBL would not offer any overall advantages compared with the Link road, for example, in terms of value for money and impacts on the countryside and residential amenity. Moreover, the Secretary of State agrees that there is not a realistic prospect of the LBL being able to be implemented because it would be likely to have a significant adverse effect on the integrity of the Morecambe Bay European Protected Sites. Given the availability of the northern alignment for the scheme, the LBL would be likely fail the test in regulation 62 of the Conservation of Habitats and Species Regulations 2010 that there are no alternative solutions.

14. As regards LCC's economic regeneration objective, the Secretary of State has noted the forecast in the 2010 Economic Impact Report of a net employment benefit of 2,136 jobs as a result of the scheme. He agrees with the Examining authority that this should be regarded as a very significant benefit which weighs strongly in favour of the scheme (ER 110-114).

Traffic flows

15. The Secretary of State has noted the Examining authority's assessment at ER 116-125 of the challenges by various interested parties to the soundness of LCC's traffic flow projections. Like the Examining authority, he is satisfied that the range of scenarios tested by LCC is adequate and he does not consider that it would be appropriate to apply a "zero growth" forecast to this scheme, for the reasons given at ER 125. The Secretary of State agrees with the Examining authority that the time-savings predicted through use of the Link road are achievable and should provide a reliable route for hauliers and other travellers (ER 128-129).

16. Taking into account the traffic flow projections including in the low growth scenario using the latest Government assumptions, the Secretary of State agrees with the Examining authority's conclusion that the scheme as presented to the examination represents at least good value for money and probably very good value for money (ER 130-134).

The Halton Link road

17. The Secretary of State has considered and agrees with the Examining authority's findings and conclusions at ER 135-149 on the case for providing a road between the Shefferlands roundabout and Halton Road ("the Halton Link"), including the impacts of

attracting additional traffic to Church Brow in Halton and the proposed design of the Halton Link. In particular, he agrees with the Examining authority that the road safety concerns of some interested parties can be dealt with by means of mandatory speed limits combined with appropriate signing and traffic calming measures, and accordingly agrees that requirement 22, as discussed at ER 308-311, should be included in the Order. Overall, the Secretary of State agrees with the Examining authority that on balance the provision of the Halton Link is in the best interests of the village and its community and he has, therefore, concluded that provision in the Order for the Halton Link works should be retained (ER 149).

**Other Environmental Matters:
Visual and landscape impacts**

18. The Secretary of State has noted the Examining authority's assessment at ER 150-163 of the impacts of the scheme at specific locations along the route of the Link road. He accepts that there would inevitably be some adverse visual impacts, for example, as a result of the proposed embankment and bridge at Torrisholme. However, the Secretary of State agrees, for the reasons given by the Examining authority, that none of those impacts would be unacceptable, although they need to be weighed in the overall balance.

19. As regards the general impact of the scheme on the landscape north of Lancaster, he notes the Examining authority's view that there would be a significant overall impact that would need to weigh adversely in the overall balance, particularly in the short term. He nevertheless agrees with the Examining authority that, taking into account the landscaping proposals (once established), the negative impact would not outweigh the benefits of the scheme (ER 164-166).

Air quality and noise impacts

19. The Secretary of State agrees with the Examining authority that overall the Link road would be likely to result in a distinct improvement in air quality for sensitive receptors (ER 169-171). As regards noise impacts, the Secretary of State notes that while there would be a modest adverse impact in the longer term, only one property was calculated as becoming eligible for mandatory noise insulation. He agrees with the Examining authority that, taking into account compensation and mitigation measures, the noise impacts of the scheme should not be regarded as unacceptable (ER 172-175)

Ecological impacts

20. The Secretary of State confirms that, in relation to European and nationally protected species and conservation of biodiversity, he has had regard to his duties under the Natural Environment and Rural Communities Act 2006. In relation to the Morecambe Bay European Protected Sites, he has taken into account the conclusion of the shadow Habitats Regulations Assessment, with which Natural England concurred, that there would be no likely significant effects resulting from the scheme. He accordingly agrees with the Examining authority that Appropriate Assessment is not required (ER 176-177).

21. The Secretary of State agrees with the Examining authority that the effect of the scheme on bats should not preclude the making of the Order for the reasons given at ER 178-179. He agrees further, for the reasons given by the Examining authority, that it is reasonable for LCC to establish at the appropriate time prior to construction whether a licence would be required to cover potential disturbance of otters. The Secretary of State

is satisfied that, should such a licence be required, there are reasonable prospects that it would be granted on the basis of the mitigation measures proposed by LCC (ER 180-188).

22. The Secretary of State notes that LCC has proposed various habitat creation and mitigation measures in connection with the scheme, for example, in relation to the relocation of hedgerows and the planting of new trees. He agrees with the Examining authority that general ecological considerations do not count against the scheme and that ecological linkages would be maintained and enhanced (ER 189-190).

Flood Risk and drainage implications

23. The Secretary of State has considered the Examining authority's findings at ER 191-204 about the impacts of constructing and operating the scheme on flood risk and local drainage. For the reasons given by the Examining authority, and taking into account the views of the Environment Agency, he is satisfied that flood risk and drainage issues, for example in relation to the scheme proposals in the Torrisholme area and the River Lune bridge, have been adequately addressed and do not weigh against the scheme.

Other considerations

24. The Secretary of State agrees with the Examining authority that the loss of agricultural and other green-field land is an issue that weighs against the scheme (ER 205-206). He agrees similarly that the predicted increase of about 10% in road traffic emissions in the study area constituted a significant negative factor to be weighed in the balance; but like the Examining authority he does not regard this an insuperable objection to the scheme, taking into account Government transport policy, which envisages the possibility of some new road construction being warranted in spite of the almost inevitable localised increase in carbon emissions (ER 207-210).

25. As regards the design of structures forming part of the scheme, the Secretary of State agrees with the Examining authority that these reflect aspects of the local vernacular wherever possible and meet the requirements of the National Planning Policy Framework ("NPPF") (ER 211-212). The Secretary of State also agrees with the Examining authority that temporary construction impacts should not weigh against the scheme, taking into account, for example, LCC's draft Construction and Environmental Management Plan and the requirements in the Order that aim to safeguard against substantial harm arising during construction (ER 213-214).

Green Belt

26. The Secretary of State agrees with the Examining authority that, in accordance with the NPPF, very special circumstances are required to justify the proposed development in the Green Belt; and that it is necessary to place substantial weight on the harm to the Green Belt through inappropriateness, because of the scale of the engineering works and because the use of open land would not maintain the openness of the Green Belt or safeguard the countryside (ER 217-219). However, for the reasons given by the Examining authority at ER 217-225, the Secretary of State agrees that the prospective achievement of the four objectives for the scheme referred to at paragraph 11 above outweighs the harm to the Green Belt and all the other harm identified by the Examining authority in his report, and amounts to very special circumstances.

Infrastructure Planning (Environmental Impact Assessment) Regulations 2009

27. The Secretary of State confirms for the purposes of regulation 3(2) of the above Regulations that he has taken into consideration the environmental information as defined in regulation 2(1) of those Regulations. For the purposes of regulation 23(2)(d)(iii), the Secretary of State considers that the main measures to avoid, reduce and, if possible, offset the major adverse environmental impacts of development are the mitigation measures that would be implemented through LCC's draft Construction and Environmental Management Plan, the requirements in Schedule 2 to the Order and the undertakings referred to at paragraph 37 below (see ER 289).

Compulsory acquisition matters

28. The Secretary of State has considered the compulsory acquisition powers sought by LCC against the tests concerning compulsory acquisition in sections 122 and 123 of the 2008 Act, and has taken into account the cases of the affected persons set out at ER 242-284. He agrees with the Examining authority that the scheme is for a legitimate public purpose and that no reasonable or realistic alternative is available that would avoid the need for the use of compulsory acquisition (ER 237, 286, 290). He is satisfied also that funds are likely to be available to implement the scheme and to meet the costs of acquiring land and rights, and that each plot in the book of reference has been identified with a clear purpose (ER 239-241, 286).

29. The Secretary of State agrees with the Examining authority that, with the exception of plot 65 occupied by Broadoak Leisure Buildings Limited and plot 66 referred to at paragraph 34 below, the public benefits of the scheme outweigh the potential private dis-benefits (ER 287). He is accordingly satisfied that there is a compelling case in the public interest for granting LCC compulsory acquisition powers to the extent recommended by the Examining authority, subject to the qualification at paragraph 31 below and the exclusion of plot 66. The Secretary of State therefore agrees with the Examining authority that the tests for compulsory acquisition are met (ER 339). He is satisfied also that the requirements of Article 6 and of Article 8 and the First Protocol of the European Convention on Human Rights have been met for the reasons given at ER 291-292.

30. In relation to plot 65, the Secretary of State agrees with Examining authority, for the reasons given at ER 254-261, that LCC should be authorised to acquire compulsorily only the rights required (over a part of plot 65) to construct and maintain the new watercourse, the diverted water mains and the electricity cable jointing pit referred to at ER 288. The extent of land which the Secretary of State considers to be necessary for these purposes is "Area 1" and the 5 metre wide maintenance access shown on the drawing provided by LCC (REP 534). However, for the purposes of the Order, the Secretary of State considers that it is necessary to divide that land into four plots (65a, 65b, 65c and 65d) to enable the rights applicable to each plot to be accurately described in the Order.

31. The qualification referred to in paragraph 29 above is that, having considered the LCC's comments in REP 338 on the case for including in article 22(1) of the Order a power to impose restrictive covenants, the Secretary of State is not persuaded that such a power would be appropriate in the circumstances of the scheme. This is because LCC did not identify a specific justification in this case for conferring a wide-ranging power to impose restrictive covenants on any part of the land which would be subject to compulsory acquisition or use under the Order, nor the sorts of restrictions which might be imposed

and for what purposes. The Secretary of State has therefore decided to delete this power from the Order.

Telecommunications operators

32. With regard to the two licensed telecommunications operators referred to at ER 282, the Secretary of State is satisfied that articles 31 and 32 of the Order, which authorise LCC to extinguish the rights of, and/or to remove the apparatus of, such operators, are necessary for the purposes of the scheme. The Secretary of State for Culture, Media and Sport has given her consent under section 138(4)(b) of the 2008 Act to the inclusion of those provisions.

Open space land and exchange land

33. The Examining authority referred at ER 264 and 283-284 to the plots of open space land which would be acquired (or over which rights would be acquired) for the scheme and the proposed exchange land. In the letter referred to at paragraph 7 above, the Secretary of State for CLG has given certificates under sections 131 and 132 of the 2008 Act as to the adequacy of the land that would be given in exchange for the open space subject to compulsory acquisition under the Order. Accordingly, the Order is not subject to Special Parliamentary Procedure.

34. The Secretary of State also notes from LCC's letter of 29 March 2012 to the Secretary of State for CLG amending its certificate application, that LCC no longer proposes to acquire plot 66 for the purposes of exchange land. He has concluded that plot 66 should therefore be excluded from the compulsory acquisition and other provisions of the Order (see ER 264).

Draft Order, requirements and obligations

35. The Secretary of State agrees with the Examining authority that the various changes to the Order made by LCC during the course of the examination to refine the drafting of the Order or to enhance the safeguards and complementary or mitigating provisions, as explained in section 6 of the ER, should be incorporated in the Order (ER 329). He agrees that the further amendments recommended by the Examining authority at ER 330, with one exception, should be incorporated. The exception is that the Secretary of State does not consider it necessary to include at article 40 a list of the individual plans and drawings to be certified. He is satisfied that the list of plans and drawings in Appendix D to the Examining authority's report provides sufficient certainty about the documents which are to be certified. He notes further that the land plan and works plan referred to in that list will need to be amended prior to certification to reflect the changes in respect of plots 65 and 66 referred to at paragraphs 30 and 34 above.

36. The Secretary of State has decided to make the following additional modifications to the form of the Order set out in Appendix E to the Examining authority's report:

- in article 22 (compulsory acquisition of rights), to remove the power to impose restrictive covenants, and make consequential amendments to the Order, for the reasons given at paragraph 31 above;

- in Schedule 9 (land in which only new rights etc. may be acquired), to insert references to plots 65a, 65b, 65c and 65d for the reasons explained at paragraph 30 above;
- in column (4) of Schedule 11 (land of which temporary possession may be taken) to substitute references to relevant work numbers, so as to provide greater precision about the deadline for LCC to give up possession of land used temporarily for the purposes of the scheme; and
- various minor drafting changes to the Order which do not materially alter its effect, including changes to conform with the current practice for Statutory Instruments (e.g. modernisation of language), changes in the interests of clarity and consistency, and changes to ensure that the Order has the intended effect.

37. The Secretary of State has noted that LCC has signed two unilateral undertakings under section 106 of the Town and Country Planning Act 1990, the first in relation to implementation of the Landscape and Ecological Management Plan and the second in relation to works to improve the playing fields and requirements to carry out noise insulation measures for teaching rooms at Lancaster and Morecambe College ("the College"). He agrees with the Examining authority that these agreements should be afforded weight in deciding whether to authorise the scheme, for the reasons given at ER 331-334. The Secretary of State notes further from the College's letter dated 25 February 2013 that LCC has in addition entered into an agreement in respect of mitigation measures, which has enabled the College to withdraw its objection to the giving of development consent for the Link road.

Representations since examination

38. The Secretary of State has received representations from a few interested parties since the examination closed. He considers that none of the representations constitutes new evidence, or raises a new issue, which needs to be referred to other interested parties before he proceeds to a decision. They do not cause him to take a different view of the matters before him than he would otherwise have taken based on the Examining authority's report.

39. As regards the requirements of section 135(2) of the 2008 Act, the Secretary of State for Defence has confirmed agreement to the inclusion in the Order of any provisions which would apply to land required for the scheme at Halton Training Camp - in addition to those provisions relating to the compulsory acquisition of land already agreed to for the purposes of section 135(1) of the 2008 Act (see ER 274).

Secretary of State's conclusions and decision

40. For the reasons given in this letter, the Secretary of State considers that there is a compelling case for authorising the construction of the Link road. He agrees with the Examining authority's conclusions at ER 335 on the extent to which the scheme finds support in and is consistent with relevant policies at all levels; and that no environmental policies are such as to restrict the making of the Order in accordance with the approach in the NPPF (ER 336). The Secretary of State considers, furthermore, that improved access to Heysham Port, providing traffic relief in Lancaster City Centre, and facilitating the regeneration and economic development in parts of the locality that show most evidence of deprivation, are benefits of substantial importance. While recognising that the scheme

would have a number of adverse impacts as identified by the Examining authority, taking into account the mitigation measures that would be secured by the Order, he does not consider that any of those impacts would be unacceptable. The Secretary of State is satisfied that, overall, the benefits of the scheme clearly outweigh its likely adverse impacts.

41. The Secretary of State agrees with the Examining authority that the Order, subject to the further modifications referred to at paragraph 36 above, is appropriate for implementation of the project (ER 338). He agrees also that the need for the further consents referred to at ER 342-344 do not present an impediment to implementing the scheme such as could justify refusing the Order.

42. The Secretary of State has accordingly decided to accept the Examining authority's recommendation at ER 347 and is today making the Order granting development consent and imposing the requirements as proposed by the Examining authority, but subject to the modifications referred to at paragraph 36 above. He confirms that, in reaching this decision, he has had regard to the local impact report submitted by Lancaster City Council and to all other matters which he considers important and relevant to his decision as required by section 105 of the 2008 Act (decisions in cases where no National Policy Statement has effect).

Challenge to decision

43. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for decision

44. The Secretary of State's decision on this application is being publicised as required by section 116 of the 2008 Act and regulation 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Yours faithfully,



Martin Woods

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the former Infrastructure Planning Commission or the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks from the date when the Order is published. The Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013 (as made) is being published on the Planning Inspectorate website at the following address:

<http://infrastructure.planningportal.gov.uk/projects/NorthWest/Heysham-to-M6-Link-Road/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655).