



Department
for Transport

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Your Ref:

Our Ref: NATTRAN/WM/S247/2207

Date: 18 October 2016

Dear Mr Lynch

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 247
PROPOSED STOPPING UP OF HIGHWAY AT MANOR SQUARE, MANOR WALK AND
UN-NAMED CARRIAGEWAY, SOLIHULL B91 3QB
OS GRID REFERENCES: E:415231, N:279323**

THE STOPPING UP OF HIGHWAY (WEST MIDLANDS) (NO.) ORDER 201

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to refer to the application made by Lend Lease Retail Partnership (“the Applicant”), for an Order under section 247 of the Town and Country Planning Act 1990 (“the 1990 Act”). The Public Local Inquiry was held on the 17 May 2016 at The Holiday Inn, De Limsi Suite, 61 Homer Rd, Solihull, B91 3QD and for the remaining sitting days, from the 18 May 2016, at the Civic Suite, Homer Road, Solihull, B91 9SE. The Public Local Inquiry was held before RM Barrett BSc (Hons) MSc Dip Hist Cons Dip UD MRTPI IHBC, an independent Inspector appointed by the Secretary of State for the purpose of hearing objections to and representations about the above draft Order.
2. The Inquiry into the application for an Order under section 247 of the 1990 Act was held jointly with The Metropolitan Borough of Solihull (Touchwood Extension, Solihull) Compulsory Purchase Order 2015 (“the CPO”). The decision letter in relation to the CPO will be issued separately by the Secretary of State for Communities and Local Government.
3. The Order, if made by the Secretary of State as published in draft, would authorise the stopping up of highway to enable development to be carried out in accordance with the planning permission granted under Part III of the 1990 Act by Solihull Metropolitan Borough Council, under reference PL/2015/51464/MAJFOT. The Order, would authorise the stopping up of an irregular shaped area of highway comprising a length of Manor Square, a length of Manor Walk and a length of un-named carriageway at Solihull in the Metropolitan Borough of Solihull.

The Inspector's Report

4. There were 135 objections outstanding to the draft Order at the opening of the Inquiry, four of which were withdrawn either before or during the Inquiry. Thirty one further representations were made before the inspector at the Inquiry stage. The Inspector considered the objections and all representations about the Order at the Inquiry, and submitted a report to the Secretary of State. A copy of that report is 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.

5. Within the inspector's report are summaries of the cases put forward by the Applicant and the Objectors. The conclusions are set out at IR 6.73 to IR 6.75, with the final recommendation detailed at IR 6.76.

6. Prior to and during the course of the Inquiry a number of modifications to the draft Order and stopping up plan were suggested. Each would have the effect of reducing the area of highway to be stopped up.

The Inspector's Recommendation

7. In light of the Inspector's conclusions it was recommended that the draft Order be made with modifications (IR 4.30). In effect this would mean that the modified area subject of the Order would reduce in size by omitting a short section of footway on Church Hill Road.

The Secretary of State's Decision

8. The Secretary of State has considered carefully the objections to, and representations about, the draft Order. He has considered the Inspector's report including the suggested modifications and accepts, for the reasons given below, the conclusions and recommendation reached.

9. The Secretary of State's role in this matter is to balance the overall public interest in interfering with an established public right of way and to come to a decision on that public interest. In doing this, he must distinguish between those matters relevant to the application for planning permission, which are matters for the local planning authority, and those factors relevant to the extinguishment or diversion of the highway itself.

10. It is not the function of the Secretary of State to reconsider whether or not planning permission should have been granted or to reconsider any aspect of that permission. His role is limited to considering the impact that the closure of this highway would have on users and to take a decision which determines where the ultimate public interest may lie.

11. The Secretary of State has considered carefully the material points of the objections reported and has noted and agrees with the Inspector's conclusions on these. The Secretary of State agrees with the Inspector's overall conclusions at IR 6.73 to IR 6.75. He considers that if the development is carried out in accordance with the approved plans the effect of the closure would not be likely to cause any detrimental effects. In fact, the disadvantages and loss of the suggested reduced area to be stopped up would be far outweighed by the advantages of the implementation of the approved planning permission.

12. In light of the above considerations and the conclusions reached, the Secretary of

State is satisfied that there are no overriding reasons, on the grounds of public interest for not stopping up the area of highway with the modifications suggested by the Inspector. For this reason, the Secretary of State accepts the Inspector's recommendation to make the Order subject to the suggested modifications.

13. A copy of this letter has been sent to the objectors. Copies will be made available on request to any other persons directly concerned and will be placed on deposit for public inspection, along with the Made Order, when it is advertised. 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 appended to the Inspector's report.

14. Any person aggrieved by the making of the Order and desiring to question the validity thereof or of any provision contained therein, on the grounds that it is not within the powers of the Act or that any requirement of that Act or of any regulation made thereunder has not been complied with in relation to the Order, may, within 6 weeks from when the public notice is advertised, as required in section 252 of the Act stating that the Order has been made, apply to the High Court for the suspension or quashing of the Order or of any provision contained therein.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Dave Candlish', with a long horizontal stroke extending to the right.

DAVE CANDLISH

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

Enc: