



Local Authority Orders
CITYGATE
NEWCASTLE UPON TYNE NE1 4WH

SWITCHBOARD 0191-201 3300
DIRECT LINE 0191-2023641
GTN 5227
FAX 0191-202 3744
e-mail: Julie.HUME@gone.gsi.gov.uk

County Solicitor
Leicestershire County Council
Chief Executive's Department
County Hall
GLENFIELD
Leicestershire
LE3 8RA

Your Ref: PKG/JH
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Date: 24 August 2005

Madam

HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981
THE LEICESTERSHIRE COUNTY COUNCIL (EARL SHILTON BYPASS CLASSIFIED ROAD) (SIDE ROADS) ORDER 2004 ("the SRO")
THE LEICESTERSHIRE COUNTY COUNCIL (EARL SHILTON BYPASS CLASSIFIED ROAD) COMPULSORY PURCHASE ORDER 2004 ("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 Baptist Church, Mill Lane, Earl Shilton between 7-10 September 2004 before Mr A L Roberts CB CBE AFC FRAeS an Inspector appointed by the Secretary of State to hear objections to and representations about the above named Orders submitted by Leicestershire County Council ("the Council").

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

(a) improve highways, stop up highways, construct new highways, stop up private means of access to premises, and provide new means of access to premises in relation to the classified road being the highway which the Council propose to construct from a new roundabout to be constructed on the A47 Leicester Road at a point just north east of the existing roundabout junction of the A47 with the B4668, running north eastwards and to the south and east of Earl Shilton for a distance of approximately 3.0 miles to a point where the Bypass rejoins the A47 at a new roundabout to be constructed just south of the properties known as 'Long Spinneys'.

(b) to compulsorily acquire land and rights on land for the construction of the classified road referred to at (a) above; the construction of new highways, the improvement of existing highways and the provision of new means of access to premises in pursuance of the SRO mentioned at (a) above; use by the said Council in connection with the above works; the diversion of and the carrying out

of works on watercourses in connection with the above works; use by the said Council in connection with the diversion of a watercourse; 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. There were 95 objections outstanding at the commencement of the Inquiries, many of which did not specify which Order was being objected to. Sixteen objectors appeared, or were represented, at the Inquiries. Three of the four statutory objections to the CPO and two of the non-statutory objections (to both Orders) were subsequently withdrawn. Three persons representing the Earl Shilton Town Council (all members of the Council) appeared in support of the scheme. 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. Reference 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 outlines the case for the Council at IR 3.1 to IR 3.95. The case for the supporters is at IR 4.1 to IR 4.7. The case for the objectors and the Council's responses can be found at IR 5.1 to IR 5.3.3 with the alternative route proposal submitted by objectors and the Council's rebuttal together with a counter-objection to it reported at IR 6.1 to IR 6.9. The Inspector's conclusions can be found at IR 7.1 to IR 7.82 with his recommendations at IR 8.1 and IR 8.2.

OBJECTIONS TO THE PROPOSALS

5. The main grounds for objection to the Council's proposals were:

- Public consultation on the scheme's details was inadequate. Residents and the Blaby District Council were misled as to the nature of the scheme.
- Support for the scheme as now proposed is far less than suggested by the County Council.
- Unnecessary environmental impacts would result from the bypass not being in cutting where it runs between Elmesthorpe and Earl Shilton, as was originally intended (an alternative proposal that the bypass be put in cutting was submitted to the Inquiries by three groups of objectors, although this had not been advertised beforehand).
- The stopping up of two side roads would result in community severance, unnecessary diversions for local residents and a consequent increase in journey times.
- The proposed junctions, plus those that would be provided later for future development, would mean that the new road would not be a true bypass but merely a distributor road.

- Traffic would be unnecessarily diverted onto local residential roads.
- The bypass would be unsafe for pedestrians and cyclists to cross, leading to accidents.
- Improvements to the proposed T-junctions at Mill Lane and Breach Lane should be provided and the proposed underpass relocated to Mill Lane.

SUPPORT FOR THE PROPOSALS

6. Support for the proposals came from Hinkley & Bosworth Borough Council, Earl Shilton Town Council and a number of individuals, who stated that the bypass plans have been supported over the years and are carried into the latest Local Plan for the area; that the bypass would have significant environmental benefits in removing pollution, congestion, and noise and ameliorate community severance of Earl Shilton, as well as reduce accident risks; and that, in the light of planned future development, the bypass was urgently needed if traffic problems in Earl Shilton were not to become exacerbated.

THE INSPECTOR'S CONCLUSIONS AND RECOMMENDATIONS

7. A full copy of the Inspector's conclusions and recommendations can be found at Annex A to this letter.

8. In light of his conclusions the Inspector has recommended –

(a) at IR 8.1 that, subject to the availability of central government funding for the scheme, the SRO be modified as set out in IR 7.77, which modifications are described at paragraph 9 below and that the Order, so modified, be confirmed; and

(b) at IR 8.2 that, subject to the availability of central government funding for the scheme, the CPO be modified as set out in IR 7.78, which modifications are described at paragraph 10 below, and that the Order, so modified, be confirmed.

MODIFICATIONS

9. The modifications to the SRO are

a. In article 2(2)(b), "zebra" is amended to read "zebra hatching".

b. Breach Lane be stopped up over 205 metres rather than "215" metres.

c. In Schedule 4, the description of Thurlaston Lane is amended to read "southern width" rather than "northern width".

10. The modifications to the CPO are that in the Schedule the measurement for plot 28 should be reduced by 265 square metres, from 697 square metres to "432 square metres", and the size of plot 28 should be reduced accordingly on the Map.

POST INQUIRIES CORRESPONDENCE

11. Following the close of the Inquiries, a letter dated 10 September 2004 was received from G & R Burgess containing correspondence regarding the lack of consultation by Leicestershire County Council with them on the A47 Earl Shilton scheme design and in particular the routes of new bridleways.

THE SECRETARY OF STATE'S CONSIDERATIONS

12. 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 the Inspector's conclusions. The Secretary of State has also taken matters raised in post inquiries correspondence into account but they do not alter the decision to accept the Inspector's conclusions.

13. In coming to a decision on the CPO and the SRO the Secretary of State needs to be satisfied that there is a reasonable prospect of the scheme going ahead. The Council need to demonstrate that all necessary resources to carry out its Order plans are likely to be available within a reasonable timescale and that it would be able to complete the compulsory land acquisition within the statutory period following any confirmation by the Secretary of State of the CPO.

Funding/Timing of Funding

14. Following the Government's 2004 Spending Review, Department for Transport Ministers reviewed the relative priority of major local transport schemes. In the letter of 2 December 2004 from Government Office for the East Midlands to Leicestershire County Council, announcing the 2005/06 Local Transport Capital Expenditure Settlement, it was stated that Ministers recognised 'that the A47 Earl Shilton Bypass scheme would deliver significant benefits both to through traffic and to the community of Earl Shilton but, whilst recognising these benefits, had decided that the scheme does not present a sufficient priority for approval at this stage'.

15. The letter went on to say that further consideration of the scheme for funding would be subject to the arrangements set out in Annex 1 of that letter, which stated the Government's desire and intention to give regional bodies a greater involvement in decisions on funding of major local authority transport schemes and major road schemes on the regional trunk road network. This policy was confirmed in a document issued in July 2005 entitled "Regional Funding Allocations: Guidance on Preparing Advice". Under these arrangements the regions have been asked to provide advice to the Government by end of January 2006 on their priorities for major transport schemes within indicative regional funding allocations. It is expected that Ministers will take decisions on the funding of schemes in the light of this advice.

DEFERRAL OF DECISION ON THE ORDERS

16. In the light of the above, the Secretary of State is unable to come to a view at this time as to whether or not the A47 Earl Shilton Bypass will be assigned funding. He therefore defers his decision on the Orders until a decision on funding has been

taken following the receipt of regional advice. It is expected that the decision on funding for the A47 Earl Shilton Bypass will be taken before mid-2006.

AVAILABILITY OF DOCUMENTS

17. 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 Madam
Your obedient Servant

A handwritten signature in cursive script, appearing to read 'Julie Hume', is written in black ink. To the right of the signature is a vertical red line.

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

7. CONCLUSIONS

- 7.1. Bearing in mind the submissions and representations I have reported, I have reached the following conclusions, reference being given in square brackets to earlier paragraphs of this report where appropriate.
- 7.2. If I am to recommend that the Side Roads Order be confirmed, I need to be satisfied that alternative routes to highways proposed to be stopped up are reasonably convenient and, where private means of access are to be provided, that another reasonable convenient access is available or will be provided.
- 7.3. If I am to recommend that the Compulsory Purchase Order be confirmed, I need to be satisfied:
- a. that all the land included in the Order is required for the proposal;
 - b. that it is not proposed to acquire any land before reasonable time;
 - c. that having regard to paragraph 8 of Department of the Environment Circular 14/94, there is a compelling case for compulsory purchase in the public interest; and
 - d. taking account of the guidance presented in ODM Circular 02/03,
 - that this justifies interfering with the human rights of those with an interest in the land affected, having regard, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights, and, in the case of a dwelling, to Article 8 of the Convention;
 - that the County Council has a dear idea of how it is intending to use the land it seeks to acquire;
 - that the County Council can show that all necessary resources to carry out its plans are likely to be available within a reasonable timescale; and
 - that the scheme is unlikely to be blocked by any impediment to implementation.
- 7.4. I need also to be satisfied that any adverse environmental impact is proportional, having regard also to the mitigation proposed.

Need for the Scheme

- 7.5. Currently, about 16,000 vehicles per day pass through the centre of Earl Shilton on the A47, a Principal Road within the Leicestershire Structure Plan 1991-2006. The road is quite narrow in places. As a result,

considerable congestion occurs in the town and journey times are increased. Residents are subject to an unpleasant environment and find it difficult to cross the road. [2.8, 3.1–3.4] Future planned development is likely to worsen the situation [3.6-3.8]. After investigating various alternative means of alleviating the situation, the County Council has concluded that a bypass along the proposed line would be the only practicable solution to the problem [3.9-3.14]. Although a small minority of objectors feel that public funds would better be spent on other projects, few local residents question the need for the scheme [5.2.1, 5.2.45]. I conclude that there is a strong case for such a bypass.

Planning Policies

- 7.6. The scheme would comply with Government transport objectives [3.34] and with Regional Planning Guidance [3.35]. The bypass is included in the existing Structure Plan and the route corridor is reflected in Local Plans [3.36 – 3.41]. Although the line of the bypass is reflected in Local Plans and protected from other development, the scheme details are not specifically addressed [3.37-3.40].
- 7.7. The bypass would lie within both the Hinckley and Bosworth Borough and the Blaby District [2.7]. The Hinckley and Bosworth Borough Council has given its formal support to the scheme [4.1-4.2]. Although, in commenting on the planning application, the Blaby District Council expressed its reservations about the bypass not being in cutting near Elmesthorpe [5.2.3, 5.2.9 - see also paragraphs 7.69 to 7.73 below], it has not objected to the Orders being confirmed.
- 7.8. Contrary to the views of the objectors [5.2.2-5.2.5], I conclude that the proposed scheme accords with national and local policies and plans.

Traffic Effects

- 7.9. The evidence convinces me that the objectors' misgivings about traffic flows [5.2.16-5.2.19], although undoubtedly genuine, are, in some respects, misconceived. Contrary to their doubts about forecasting accuracy, experience with the nearest equivalent scheme in the county (the Ashby bypass) suggests that the County Council's forecasting (based on well-established modelling techniques) is reasonably accurate [3.46-3.49, 4.5, 5.2.20]. Those referring to increases of 100% and 160% for Station Road and Elmesthorpe Lane respectively may not realise that much of this would be due to the forecast general increase in traffic by 2021, rather than being a consequence of the proposed scheme. [5.2.17]
- 7.10. The objectors are concerned that there would be a substantial rise in traffic flows along the Elmesthorpe Lane section of the B581 and along the southern section of Station Road (Earl Shilton). Although the modelling confirms that this would be the case, neither the County Council nor the Earl Shilton Town Council believe that the increased flows would be excessive [3.58, 4.5, 5.2.22, 5.2.23]. Improvements would be provided to ensure that the additional flows can be accommodated on Elmesthorpe

Lane and, if necessary, traffic management and speed control measures could be introduced on Station Road. [3.59, 5.2.22]

- 7.11. In any case, the scheme would result in significant reductions on the majority of links. On the existing A47 through the centre of Earl Shilton, flows would be reduced by between 27% and 37%, depending on the precise location. [3.50-3.58] Both the bypass itself and the local roads (including Elmesthorpe Lane and Station Road) would be able to accommodate the predicted traffic flows [3.60, 3.61, 5.2.21, 5.2.23].
- 7.12. Additional traffic likely to be induced by the scheme is not expected to be significant [3.62].
- 7.13. Whilst there are differing views on how best the existing problems on the A47 might best be overcome [see Section 6 above and my conclusions on the BRAG Alternative in paragraphs 7.69-7.73 below], I conclude that the scheme proposed by the County Council would meet the need and that its overall effect on traffic flows would be beneficial.
- 7.14. Whether or not the proposed new road should be a "true bypass" or merely a distributor road [5.2.16] is, in my view, a matter for the planning authorities. In this case, not only has the County Council decided that junctions should be included on the bypass but Local Plans already assume access to the bypass from future development [3.7, 3.8]. I conclude that, rather than one for the Secretary of State to consider, this is a matter for the County Council - which has already granted planning permission for the scheme as proposed.

Availability of Information

- 7.15. The objectors say that they have been put at a disadvantage as a result of the late release of traffic flow data [5.2.13]. However, the reference year forecasts were publicly available in the Environmental Statement placed on public deposit. Furthermore, the objectors' groups had earlier been invited to view the latest forecasts in County Hall – an offer they did not take up. [5.2.14]
- 7.16. I have dealt with the matter of the 2004 Supplementary Appraisal in paragraphs 1.9 and 1.10 above. The objectors did not feel the need to take up my offer of an adjournment for further consideration of the County Council's evidence.
- 7.17. I conclude that the objectors' interests have not been prejudiced by any late release of information.

Public Safety

- 7.18. The objectors are concerned about dangers to the public as a result of increased speeds on Elmesthorpe Lane and Station Road (Earl Shilton), and of children having to cross the new bypass [5.2.26].

- 7.19. In practice, although flows on these two roads would be higher, the presence of T-junctions is such that speeds should be lower than at present. There would, for the first time, be a proper pedestrian crossing facility on Station Road and safe pedestrian crossing facilities would be provided at the signalled junctions on the bypass. [5.2.25, 5.2.27-5.2.29].
- 7.20. I conclude that risks to public safety would not be increased at these locations; indeed, they are more likely to be reduced and, in that flows on many other local roads would be reduced, the scheme is likely to result in increased public safety.

Environmental Effects

- 7.21. An Environmental Impact Assessment has been carried out. The Environmental Statement, including a Non Technical Summary, was published and put on deposit for public inspection. [3.63] In coming to these conclusions, I have taken into account the Environmental Statement and all other environmental information submitted to the inquiries, including comments and representations by statutory consultees and members of the public.

Noise and Vibration

- 7.22. The objectors believe that, because the bypass would not be in cutting, residents living near the bypass and in Elmesthorpe would suffer from unnecessarily increased noise [5.2.30]. However, the evidence submitted to me suggests that, whilst a few residents would experience increased noise, the majority would benefit from the scheme. Many more properties (5011) would benefit from a reduction in noise than would suffer an increase (1332). Few properties (none in Billington Road West) would experience a discernible increase, the maximum (at a property on Station Road, Earl Shilton) being 3.7 dB(A) by 2021, raising it to 60.1 dB(A). [3.65, 3.66, 5.2.34] The number of residents likely to be annoyed by noise is expected to reduce by about 116. [3.66, 5.2.34]
- 7.23. It is unlikely that any properties would suffer damage from ground vibration [3.66, 5.2.35]
- 7.24. Some objectors also argue that, in the interests of minimising noise for those living in Billington Road West and the Crescent, the line of the western end of the bypass should be moved further to the north and that mounding should be provided along the new section of dual carriageway [5.2.31, 5.2.32].
- 7.25. The line of the bypass west of Elmesthorpe Lane is dictated by the need to pass through the small gap between Elmesthorpe and Earl Shilton, the need to position the western roundabout equidistant from the adjacent properties and the need not to infringe the minimum radius requirements associated with the 40 mph speed limit [5.2.37]. I conclude that it would not be feasible to move the line to the north without unacceptable consequences for others.

- 7.26. As for mounding along the dual carriageway, this would require both the acquisition of additional land and additional expense for the mounding itself. As the increase in noise levels at nearby properties would be less than 3dB(A), this would not, in my opinion, be justified. [5.2.32, 5.2.38]
- 7.27. I conclude that the impact of the published scheme on residents, whilst disadvantaging a few, would be acceptable. I deal with the case for the bypass being in cutting near Elmesthorpe in paragraphs 7.69-7.73 below.

Air Quality

- 7.28. Although the objectors are concerned that residents living near the bypass and in Elmesthorpe would suffer from increased air pollution, pollution levels would remain significantly below Government targets. [3.67, 5.2.30, 5.2.36]

Landscape and Visual Intrusion

- 7.29. Although the scheme generally runs at, or near to, existing ground levels, extensive mounding (up to 3 metres above carriageway level but with slopes no steeper than 1:3) and soft landscaping would be used to minimise visual intrusion and to blend the scheme into its surroundings. Nevertheless, the overall impact would be slightly to moderately adverse. [3.68 - 3.71]
- 7.30. The objectors argue that, because the bypass would not be in cutting, residents would suffer from unnecessary visual intrusion [5.2.39]. However, the majority of those properties with a view of the bypass would be able to see even the larger vehicles on the bypass only from the first floor. Although the tops of the highest vehicles would, at first, be visible from nearby properties, planting would commence in November 2006 and complete screening of vehicles ought to be achieved within 15 years. The visual impact of the bypass would, within 15 years, be only negligible or slight, although the street lighting would still be visible from some properties. [3.68, 3.70, 5.2.39-42]
- 7.31. Although the objectors are also concerned that the improvements to Elmesthorpe Lane would include no protection from visual intrusion [5.2.40], there is relatively little at present [2.3]. Whilst I judge that additional visual intrusion would be experienced by a few living in the Elmesthorpe Land Settlement area in the short term, the situation should eventually revert to that currently pertaining as the natural vegetation recovers. The provision of screening is one of design detail and thus not a matter for the Secretary of State. Whilst it seems to me that the provision of some sort of screening within the Order land would, if feasible, be desirable, I conclude that the scheme as proposed would be acceptable and modification of the Orders on this account would not be justified.
- 7.32. I conclude that the impact of the scheme on the local landscape, and on visual intrusion, would be acceptable.

Light Intrusion

- 7.33. The objectors are concerned that, because the bypass would not be in cutting, the proposed scheme would result in unnecessary light pollution [5.2.39]. However, although complete screening of the street lighting on the bypass for all properties would not be achieved, modern cut-off lanterns would be used and, even at the nearest property to the bypass, the increase in light would be very limited [3.22, 5.2.41].
- 7.34. I conclude that, in the interests of public safety, the street light proposed as part of the scheme would be acceptable. I deal with the case for the bypass being in cutting near Elmesthorpe in paragraphs 7.69 to 7.73 below.

Community Severance

- 7.35. Elmesthorpe has no shopping facilities of its own and some residents living in Earl Shilton worship at Elmesthorpe Parish Church. The objectors are concerned that, under the scheme as proposed, Elmesthorpe would effectively be severed from Earl Shilton. [5.2.43]
- 7.36. I acknowledge that those driving between Elmesthorpe and Earl Shilton would suffer from some inconvenience. However, the additional (return journey) distance involved for the majority of such drivers would be less than one kilometre. Although those on foot would have to cross the new bypass, distances would remain unchanged and safe pedestrian crossings would be provided. [5.2.44].
- 7.37. Whilst there would, no doubt, be a degree of disruption during the construction period, I conclude that the proposed scheme would not result in significant community severance once construction was complete.

Ecology and Nature Conservation

- 7.38. The site is not of significant nature conservation value due to the dominance of low diversity, common and highly modified habitats. No Sites of Special Scientific Importance would be affected by the scheme. No protected species have been detected during site surveys so that no licence is likely to be required from English Nature. [3.72-3.74]

Cultural Heritage

- 7.39. The most severe archaeological impact would be on the medieval manorial complex at Elmesthorpe, where construction of the scheme would destroy significant remains and severely compromise the integrity of this regionally important archaeological and historical site, which includes a Scheduled Ancient Monument (the surviving nave and west tower of Elmesthorpe Parish Church, about 175 metres from the nearest edge of the carriageway). A possible Neolithic crop mark enclosure could also be of great archaeological significance. Elsewhere, the impact of the scheme on known remains would be either slight or of low archaeological potential. [3.75-3.77]

- 7.40. Although the impact of the scheme is assessed to be "Moderate Adverse", no difficulties are anticipated in obtaining the necessary licence from English Heritage, in consultation with whom mitigation proposals would be developed. [3.77, 3.78]

Rights of Way

- 7.41. The bypass would sever two bridleways and two footpaths. New sections of bridleway and footpath would be provided as necessary to maintain the continuity of the rights of way network. An open-aspect underpass would be constructed to provide a safe crossing of the bypass for equestrians, cyclists, and pedestrians at a point where bridleways and footpaths converge. [3.79-3.80, 3.82-3.87]
- 7.42. The land required to construct these new rights of way and the associated underpass has been included in the CPO in case these routes cannot be established by agreement with the respective land owner. [3.81]
- 7.43. I conclude that the arrangements made to preserve the continuity of the local rights of way network would be satisfactory.

Economic Considerations

- 7.44. Whether or not public funds could better be spent on other projects, as is argued by a few objectors, was not a matter before the inquiries but the fact that the scheme would pay for itself around 4 to 5 times over in its first 30 years, or 7 times over 60 years, suggests that it would represent good value for money. [3.89, 3.92, 5.2.45, 5.2.46]
- 7.45. The scheme, which could be open to traffic as early as the winter of 2006/2007, would cost some £14.6 million, of which £13.4 million would have to come from central Government funds. Although the scheme was provisionally accepted for such funding in December 2000, a final decision is dependent on the conclusions of the 2004 national spending round. [3.92, 3.93]
- 7.46. Given the necessary central Government funding, the County Council is aware of no potential impediment to scheme implementation [3.93].

Appraisal Summary Table

- 7.47. An Appraisal Summary Table (AST) was included in the *Updated Scheme Appraisal July 2003* submitted to the DfT. A revised AST was included in the draft *Supplementary Scheme Appraisal July 2004* – a working document currently being discussed with the Department. [1.9, 1.10, 3.33, 3.92] In my judgement, the assessments made in the AST are reasonable (although I note that it includes no reference to visual intrusion).

Statutory Objection by Messrs Burgess

Consultation

7.48. The County Council has apologised to the objectors for its failure to bring to their notice, prior to consideration of the planning application by the Council, late changes made to the scheme. However, the objectors were informed of the planning application, were able to object to the changes (albeit, only at the last minute) and their concerns were taken into consideration when the application was considered. It is unlikely that changes to the scheme design would have been made at the planning submission stage even had such additional consultation taken place. [5.1.2, 5.1.12]

7.49. I conclude that, while regrettable, the County Council's failure to bring late changes to the attention of the objectors is unlikely to have prejudiced their interests.

Equestrian Routes

7.50. Messrs Burgess object to the imposition of new bridleways on their land but say that they would be willing to withdraw their objection should suitable fencing be provided to deter trespass on their land. [5.1.3] The County Council has informed Messrs Burgess that such an agreement could be made. [5.1.13, 5.1.14]

7.51. This seems to me to be a matter of accommodation works and does not affect the need for compulsory purchase of the land; the proposed new bridleways are required in order to preserve continuity in the bridleway network. [3.79, 3.81] Whether or not the extension to Breach Lane appears as a right of way on the Definitive Map does not, in my judgement, affect the issue [5.1.4, 5.1.15].

7.52. I conclude that the Orders should not be modified in this regard.

Location of Underpass

7.53. Although Messrs Burgess object to the stopping up of Mill Lane and suggest that the underpass should be relocated to that point, I note that Hinckley Equestrian Ltd, the main beneficiaries of the lane, say that they "can live without vehicular access north onto Mill Lane ...". [5.1.5, 5.1.22, 5.3.2] No objections to the proposed location of the underpass have been received from the relevant ramblers or equestrian groups [5.1.18]. Relocation of the underpass to Mill Lane would involve a delay to the scheme of about 18 months [5.1.17]. Rather than being at a point where the bypass would be on embankment, it would be where the bypass is at ground level, so that a deeper underpass would be required. Furthermore, the existing watercourse would still need to be accommodated. The additional cost would be some £1.3 million [3.26, 5.1.16-5.1.19].

7.54. The location as proposed was agreed with Messrs Burgess at an early design stage [5.1.16]. The degree to which the underpass as proposed would actually increase the risk of criminal damage to their property [5.1.6] is a moot point. However, the proposed location would maintain

the existing farm track from Huit Farm and would provide a safe crossing for agricultural vehicles whilst minimising diversion for the adjacent landowner. As relocation to Mill Lane would, in my view, bring relatively little additional benefit to pedestrians, cyclists and equestrians, I conclude that the delay and additional expenditure involved in relocating the underpass would not be justified [5.1.5, 5.1.7, 5.1.16, 5.1.17, 5.1.19].

CPO Plot 28

- 7.55. Although Messrs Burgess object to the compulsory purchase of Plot 28 to provide a footpath alongside the sewage works, they say that they do not object to diversion of the footpath. Should agreement be reached with Messrs Burgess for the dedication of the replacement footpath link, the County Council would not need or seek to take title to the land. To cater for failure to reach agreement, however, I conclude that compulsory acquisition of Plot 28 would be justified. [3.81, 5.1.8, 5.1.20]
- 7.56. However, the objectors also suggest that the compulsory purchase of a 3-metre width of land merely to accommodate a footpath would be excessive [5.1.8]. I agree. The footpaths are normally no more than 1.8 metres wide. No evidence has been presented to me to suggest that acquisition of a greater width would be justified. I conclude that the width of Plot 28 should be reduced by 1.2 metres so that the area of the plot shown in the Schedule to the CPO should be reduced by 265 (1.2 X 221) square metres, from 697 square metres to 432 square metres. This should then be reflected on Map C attached to the Order by moving the southern edge of Plot 28 1.2 metres to the north (thus placing it nearer to the field boundary).

Refuge Provision

- 7.57. Messrs Burgess object to the fact that no refuges are proposed for the Mill Lane and Breach Lane junctions. However, both junctions have been designed within the parameters set out in the Design Manual for Roads and Bridges. These include guidance on traffic flows justifying ghost island provision in such situations, suggesting that they need be provided only where flows into the side road exceed 300 vehicles AADT [5.1.9, 5.1.21, 5.1.24].

Mill Lane

- 7.58. A recent survey has indicated that the use of Mill Lane junction may be rather higher than an earlier survey had suggested and may be approaching 300 vehicles AADT [5.1.23, 5.1.24]. Following the concerns raised in Messrs Burgess' objection and the recent traffic count, the possibility of providing a ghost-island junction with a right turn lane will be reviewed by the County Council. [5.1.25]
- 7.59. Fortunately, the CPO does include sufficient land for the construction of a ghost-island junction to a minimum standard (construction to the optimum standard would require the acquisition of additional land) [5.1.25]. I therefore conclude that this can be dealt with as a matter of design detail and that no modification to the Orders is required

Breach Lane

- 7.60. The objectors' estimate of some 6,000 vehicles using Breach Lane annually to access their farm implies that the AADT flow would be very low [5.1.9]. Although access would also be required for three other farming businesses, a traffic survey suggests that flows would be well below the level of 300 AADT required to justify provision of a ghost island junction. [5.1.24, 5.1.26-5.1.28]
- 7.61. I conclude that modification of the Orders in order to accommodate a ghost island junction at the Breach Lane junction would not be justified.

Screening

- 7.62. Messrs Burgess object to the fact that the scheme does not include planting or other screening to protect their farm from undue visual intrusion and noise [5.1.10]. My measurements on the CPO map show that Huit Farm would be some 300 metres from the edge of the bypass. No evidence has been submitted to me to suggest that the farm would in fact suffer from undue noise or visual intrusion. In my view, modification of the Orders on this account would not be justified.

Written Objections and Representations

- 7.63. Most of points raised in the written objections and representations (CD 7) were also made in the inquiry documents and oral evidence, on which I have concluded above. The exceptions were those made in the representation made by Hinckley Equestrian Ltd.

Representation by Hinckley Equestrian Ltd

- 7.64. The objectors say that they "can live without vehicular access north onto Mill Lane and on into Earl Shilton" but believe that a safe crossing point should be provided at the Mill Lane access to their premises, that slip roads should be provided for that access and that a footway should be provided along Mill Lane. [5.3.2]
- 7.65. The likelihood that a number of pedestrians, especially young children, would wish to cross the bypass at the Mill Lane junction [5.1.5] is such that, in my view, the possibility of providing a safe crossing should be given serious consideration. However, this is a matter for design detail for the County Council and not one for the Secretary of State to consider.
- 7.66. The Mill Lane junction has been designed within the parameters set by the DMRB. Whilst the provision of a ghost island might be justified and would be reviewed by the County Council, I infer from its evidence that only a ghost island to the minimum standard could be provided (the County Council offered no evidence on the specific matter of slip roads) and that slip roads could not be provided within the Order land available and would not be justified by the traffic flows on Mill Lane. [5.1.21-5.1.25] Similarly, there has been no suggestion that flows on Mill Lane would increase as a consequence of the scheme and the provision of a footway could not, in my judgement be justified as part of the scheme.

- 7.67. As for the objectors' remaining concerns [5.3.2], road signs and bridleway surfacing are matters of design detail and not ones for the Secretary of State; nor is that of compensation for any disturbance during scheme construction. Although they say that any intrusive noise would have a negative impact on their business, I have been given no evidence that this would be the case; indeed, the evidence suggests that noise levels would decrease for them [5.3.3].
- 7.68. I conclude that the Orders should not be modified as a result of the concerns expressed by Hinckley Equestrian Ltd.

Alternative Scheme – Proposed by the Bypass Action Group (BAG), the Bypass Residents Action Group (BRAG) and the Elmesthorpe Land Settlement Residents

- 7.69. Under the alternative scheme proposed by the above three groups, referred to at the inquiries as the BRAG Alternative, the bypass would run through a deep cutting between Elmesthorpe and Earl Shilton, with no accesses onto the bypass at any point. Elmesthorpe Lane and Wilkinson Lane/Station Road (Earl Shilton) would be bridged over the bypass. [6.2, 6.3]
- 7.70. Clearly, the BRAG Alternative would have the advantage of avoiding the substantial increases in traffic flows on Elmesthorpe Lane south of the bypass and on Station Road, and the associated noise and air pollution along those roads. I also accept that it would offer almost as much relief on the A47 in the centre of Earl Shilton as would the published scheme. There would be no queuing at all at the Elmesthorpe Lane and Station Road crossing points and delays to through-traffic on the bypass would be minimised. [3.58, 5.2.16, 5.2.18, 5.2.19, 5.2.22-5.2.24, 6.3, 6.6, 6.9]
- 7.71. On the other hand, in the absence of junctions, speeds on Station Road/Wilkinson Lane, and the associated risks for public safety, would probably be higher. Although the deep cutting and Elmesthorpe Lane bridge (but not the Wilkinson Lane/Station Road bridge) would accord with the assumption at the time the Local Plans were being developed, the Alternative would not cater for the future planned development assumed in the Plans, with consequences for traffic flows within Earl Shilton. Although less street lighting would be visible under the Alternative, the published scheme would provide almost the equivalent protection from visual intrusion as would a cutting, albeit with mounds being visible to nearby residents. [3.6-3.8, 3.29, 3.39, 5.2.2, 5.2.27, 6.6]
- 7.72. Thus, the Alternative would have no clear advantage over the published proposals in these respects. However, it would have some serious disadvantages. Apart from Elmesthorpe Lane and Station Road, traffic on a number of local roads would be significantly higher, whilst noise would not be perceptibly lower than with the published scheme. The deep cutting, although avoiding the need for 3-metre high mounding, could affect ground water patterns and would have an extremely damaging effect on medieval remains. Unlike the published scheme, it would involve the demolition of one commercial property, or require a costly retaining

wall to be built. It would also involve a greater area of land-take and more waste disposal. Most significantly, it would delay the scheme by some 18 months and cost an additional £4.5 million, giving a benefit/cost ratio of only 2:1, as against at least 3:1 with the proposed scheme. [3.31, 3.32, 3.89, 6.6, 6.7]

7.73. In my judgement, the Alternative does not have sufficient advantages over the published scheme to merit further investigation. Its relative merits were fully investigated by the County Council before planning permission was granted for the published scheme and, given the disadvantages of the Alternative, I can see no reason for the Secretary of State to reverse that decision.

Planning Permission – Cost Estimation, Consultation and Public Support

7.74. At the inquiries, the objectors raised a number of concerns about the procedures at the planning application stage (concerning cost estimation, consultation and public support), to which the County Council responded. [4.1-4.6, 5.2.2-5.2.5, 5.2.9-5.2.12] However, these are not matters material to consideration of the Orders.

7.75. Planning permission for the proposed scheme was granted on 13 November 2003 after all the statutory procedures had been adhered to. Sufficient evidence has been produced to convince me that full consideration was given to the views of both the Blaby District Council and the objectors before the County Council decided to grant planning permission [3.42, 3.57, 5.1.2, 5.1.12, 5.2.6-5.2.11, 6.4-6.7].

7.76. I conclude that the Secretary of State would not be justified in declining to confirm the Orders because of procedures followed at the planning stage.

Modifications

7.77. Three modifications to the Side Roads Order would be required [3.94] before confirmation by the Secretary of State, as follows:

- a. In article 2(2)(b), "zebra" should read "zebra hatching".
- b. Breach Lane should be stopped up for a distance of only 205 metres, rather than the "215" metres indicated in Schedule 2.
- c. In Schedule 4, Thurlaston Lane should be stopped up over its southern width, rather than its "northern" width.

7.78. To reflect my conclusion in paragraph 7.56 above that Plot 28 represents an unnecessarily large area of land to be acquired for the proposed new footpath and that the width of the Plot should be reduced by 1.2 metres, the area of the plot to shown in the Schedule to the CPO should be amended to read "432 square metres" and the southern edge of Plot 28 on Map C attached to the Order moved 1.2 metres to the north.

Overall Conclusions

7.79. Thus, I have reached the following overall conclusions:

- there is a strong case for provision of a bypass for Earl Shilton;
- the proposed scheme has been designed to departmental standards, would meet the need and would accord with both national and local government policies and plans;
- the scheme has been granted planning permission by the County Council and all statutory procedures were adhered to prior to planning approval for the scheme being granted;
- the summaries of the impacts of the scheme and the assessments as set out in the latest Appraisal Summary Table, as contained in the draft Supplementary Scheme Appraisal July 2004, are reasonable (although I note that it includes no reference to visual intrusion);
- the environmental impact of the scheme on the local environment would be relatively limited and, having regard to the mitigation proposed and the benefits of the scheme, would be proportional;
- the total cost of the scheme at outturn prices would be £14.6 million, of which £13.4 million would have to come from central Government sources;
- subject to final acceptance for Government funding, there would be no impediment to scheme implementation and the Earl Shilton Bypass could be open to traffic as early as the winter of 2006/7;
- the weight and nature of the objections, both individually and in total, fall short of what would be sufficient for me to recommend that the Orders should not be confirmed;
- the BRAG alternative scheme was fully considered by the County Council before granting planning permission for the published scheme and does not have sufficient merit for it to be regarded as worthy of further consideration by the Secretary of State or to justify him in overriding the County Council's decision to reject it.

7.80. As regards the Side Roads Order, I have examined each of the proposals for stopping up highways and means of access to premises and am satisfied that:

- another reasonably convenient route would be available, or would be provided, before any highway would be stopped up, and that
- no means of access to premises would be stopped up unless no access to the premises is reasonably required or another, reasonably convenient, means of access to the premises is available or would be provided.

I conclude that, subject to the modifications referred to in paragraph 7.77 above, the Order should be confirmed.

7.81. As regards the Compulsory Purchase Order, and taking account of the modifications referred to in paragraph 7.78 above, I have examined the detail and justification for each plot proposed for acquisition. Having regard to ODPM 02/2003 (paragraphs 14 to 20), I am satisfied that:

- all the land and rights specified would be required for the scheme and there is a compelling case for acquisition of these in the public interest;
- this justifies interfering with the human rights of those with an interest in the land affected, having regard, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights, and, in the case of a dwelling, to Article 8 of the Convention;
- the Council has a clear idea of how it is intending to use each plot of land it seeks to acquire and is not proposing to acquire any land before reasonable time; and
- subject to the availability of central government funding, the Council has shown that all necessary resources to carry out its plans are likely to be available within a reasonable timescale.

I conclude that, subject to the modification referred to in paragraph 7.78 above, the Order should be confirmed.

7.82. I thus conclude that, subject to the availability of central government funding, the scheme is unlikely to be blocked by any impediment to implementation and the Orders should be confirmed with the modifications referred to in paragraphs 7.77 and 7.78 above.

8. RECOMMENDATIONS

8.1. I recommend that, subject to the availability of central government funding for the scheme, THE LEICESTERSHIRE COUNTY COUNCIL (EARL SHILTON BYPASS CLASSIFIED ROADS) (SIDE ROADS) ORDER 2004 be modified as set out in my conclusions at paragraph 7.77 above and that the Order, so modified, be confirmed.

8.2. I further recommend that, subject to the availability of central government funding for the scheme, THE LEICESTERSHIRE COUNTY COUNCIL (EARL SHILTON BYPASS) COMPULSORY PURCHASE ORDER 2004 be modified as set out in my conclusions at paragraph 7.78 above and that the Order, so modified, be confirmed.

A handwritten signature in black ink, appearing to read 'D. J. Mahoney', written over a horizontal line.

INSPECTOR

Appendices:

- A. Appearances
- B. List of Deposit Documents
- C. List of Core Documents
- D. List of Proofs of Evidence
- E. List of Inquiry Documents
- F. Traffic Flow Forecasts – Comparison of Options