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Dear Sir

**THE A46 TRUNK ROAD (STONELEIGH JUNCTION) (SLIP ROADS) ORDER 2019 (“the Slip Roads Order”)
THE WARWICKSHIRE COUNTY COUNCIL (STONELEIGH ROAD) STONELEIGH JUNCTION IMPROVEMENT AND OTHER WORKS) (SIDE ROADS) NO. 2 ORDER 2018 (“the Side Roads Order”)**

SECRETARY OF STATE'S DECISION – SLIP ROADS ORDER TO BE MADE AND SIDE ROADS ORDER TO BE CONFIRMED WITH MODIFICATIONS

1. I refer to your Council's application for making/confirmation of the above named Orders. The Secretary of State for Transport (“the Secretary of State”) has decided to make the Slip Roads Order and to confirm the Side Roads Order with modifications and this letter constitutes his decision to that effect.
2. The Slip Roads Order will authorise Warwickshire County Council (“the Council”) to construct two new slip roads to connect the A46 Trunk Road to the new roundabout on Stoneleigh Road, Kenilworth. The Side Roads Order will authorise the Council to stop up highways, improve highways, stop up private means of access and provide new means of access in relation to the classified road being Stoneleigh Road which the Council are proposing to improve and the new highway to be constructed on Stoneleigh Road to form a roundabout junction to connect with the A46 Trunk Road.

MODIFICATIONS

3. A number of minor modifications are to be made to the Slip Roads Order and Side Roads Order which have been agreed to by the Council. The Slip Roads Order is modified by the deletion of paragraph 2 of the Order “In this Order all measurements of distance are measured along the route of the relevant highway”. Paragraphs 3 to 7 are consequently renumbered 2 to 6. In the original paragraph 4, now paragraph 3, of the Order “be come” is amended to “become”. In the original paragraph 7, now paragraph 6, of the Order the wording “as respects...” is amended to read “that in respect of...”.

4. The Side Roads Order is to be modified by the addition of a new Article 1(1)(b) which is “(b) stop up each length of highway described in the Schedule and shown on the Site Plan by zebra hatching;”. Articles 1(1)(b) and 1(1)(c) are consequently renumbered 1(1)(c) and 1(1)(d). Also, under “Reference number(s) of new accesses” the reference to new access 3/2 is added opposite the entry for new access numbered 1/BH and new accesses 3/2 and 3/3 are added to the plan.

DECISION TO DISPENSE WITH PUBLIC LOCAL INQUIRIES

5. Fifty-three objections were received to the Orders, all of which were non-statutory and none of which would require a public inquiry to be held. Information submitted by the objectors and the Council was deemed sufficient for a decision to be reached on the Orders. Accordingly, under paragraph 7(2) of Schedule 1 of the Highways Act 1980 the Secretary of State decided to dispense with the holding of an Inquiry.

OBJECTIONS

6. Many of the objections submitted were on similar grounds to those submitted by the Campaign to Protect Rural England Warwickshire. The main grounds of these objections were that it was clear from the Council’s website page that the proposed Stoneleigh Junction enlargement was Phase 1 of a three-stage road proposal which was being advocated to link the A46 either to the A452 at Balsall Common (in Solihull Borough) or to the A45 west of Coventry.

7. Objections stated that the A46 Link Road was not a proposal of any Local Plan now in force in the areas it would run through. It was not shown on any public Proposals Map or Policies Map. Objectors considered that the A46 Link Road would be highly damaging to the countryside south and west of Coventry, which was in the Green Belt. That it would enable release of land for development which is currently agricultural land, woodland or available for recreation. Objectors considered that the established pattern of urban areas surrounded by Green Belt would be undermined and eventually lost.

8. Objections stated that the need for the A46 Link Road had not been shown and that it appeared to them to be promoted for development purposes rather than to meet any problem on the present road system. The existing main roads, A46, A45, and A452 have provided sufficient access and linkage for the present level development and there is no current public pressure or demand for further road capacity. There has been no public consultation on the A46 Link Road and no date for such consultation has been announced. Phase 1 has now been promoted by Highways Act Orders ahead of the consultation on the proposed road as a whole. The Orders were the first opportunity those affected by or concerned about the A46 Link Road have had to give their views on it or to lodge objections.

9. The objections referred to the planning permission for the Stoneleigh Junction enlargement having been granted by the Council to itself under deemed-permission regulations and had not involved any independent appraisal or right to an independent hearing and that this does not restrict scope for objections to these Orders.

10. The objections stated that the Council should be asked to either bring forward the overall A46 Link Road proposal, or if they cannot do this to assent to these Orders being held in suspension until the full A46 Link Road is published and a public inquiry into the full proposal can be held. If not, a public inquiry into these Orders was requested.

11. Objections were also submitted by a Balsall Parish Councillor and Member of the Local Access Forum for Coventry Warwickshire and Solihull. The main grounds of her objection were that there had been a lack of openness and transparency during the process to date. Phase 1 of the A46 – A45 Link Road project was useless in isolation and, therefore, useless as traffic mitigation. To date there had been no assessment of alternatives, justification or identification of need. The Secretary of State should require that approval is sought for the project, as a whole, without phasing elements and that publication of the scheme, in its entirety, becomes an urgent and open and transparent reality.

THE COUNCIL'S RESPONSE

12. The Council responded to the objections in a letter dated 26 March 2019. It advised that it had given careful consideration to the objections which clearly evidenced the strength of feeling on the part of local residents/Parish Councils and the Campaign to Protect Rural England regarding the possibility of future development in this area.

13. The Council considered that the objections made to the Side Roads Order and the Slip Roads Order in reality raised planning issues concerning the scheme. The primary purpose of the current Orders was to focus on the technical nature and effects of the scheme, they were not a suitable forum to hear planning objections. The Council stated that the objections do not appear to find fault with the scheme on a technical ground and they considered that the objections should not be accorded great weight in the making of the Secretary of State's decision regarding these Orders.

14. The Council referred to the fact that any future developments which were facilitated by the improvements at this junction would likewise be scrutinised in a fresh planning process when the objectors would have the right to be heard in full if they wished. It would be premature in planning terms to attempt to consider those future developments as part of the current Orders.

15. The Council referred to the bulk of letters being identical in form and whilst the Council did not question the sincerity of the objections they did consider it implied that the evidence put forward by them in its case has not been individually addressed by each objector.

16. The Council stated that it had undertaken a non-statutory public engagement exercise in the years running up to the making of the Orders. The Council emphatically rejected any suggestion that it had behaved improperly by seeking to introduce a larger scheme by means of a creative use of 'Phrases'. The proposed works at the Stoneleigh junction of the A46 stood on their own merits. Any further extension of the road created to the west will not take place until the case for that extension is proven, followed by the various non-statutory and statutory processes.

17. The Council advised that its determination of the planning application was conducted according to the highest possible standards of public decision making. The objectors could not point to any specific flaws in that procedure.

18. The Council considered that regardless of whether the new proposed road is later continued to the west of Coventry that there was robust evidence to prove the need for the Stoneleigh Improvements to meet the current and potential future demands on the local road network. These they stated included: future proofing to take into account known and planned development in the area; the scheme would improve the link between the A46 to the National Agricultural Centre (Stoneleigh Park), which is undergoing a period of expansion in line with its agreed masterplan, and whose events place significant demands on the junction capacity; the existing A46 Stoneleigh Road Bridge would be retained and has sufficient width and load bearing capacity to accommodate three lanes, should this be required in the future; and pressure on the local road network caused by construction of High Speed 2 (HS2) the route of which passes close by.

19. The Council considered that it was significant that prominent organisations such as the Coventry and Warwickshire LEP, the University of Warwick, and Highways England chose to write letters of support to the Council in respect of the Stoneleigh Junction Improvement Scheme recognising the real need for it. This was not a case where the Council is the only body seeing merit in its proposal.

20. The Council stated that many of the objections focus on the perceived environmental costs of the proposed junction works. The Council advised that the effect of the scheme on the environment was fully and properly considered as part of the planning process. That a screening determination had identified that a full Environmental Impact assessment was not required and that the Council had nonetheless carried out a comprehensive Ecological Impact Assessment which was freely available on its website. The Council also stated that appropriate conditions were included in the planning permission issued for these works to mitigate the ecological effects e.g. approval of a landscape and ecological management plan (condition 7), scheme to ensure no net biodiversity loss (condition 8), construction and ecological plan (condition 9).

21. The Council acknowledged the concerns raised by the objectors to the Side Roads Order and Slip Roads Order, however they considered that there was an overriding benefit that the scheme brings relating to the growth of the local economy and the enhancement of road safety, particularly as construction traffic heightens in the area due to the proximity of HS2.

ADDITIONAL REPRESENTATIONS FROM OBJECTORS

22. Three objectors made additional comments on the Council's letter. The objectors confirmed their opposition to the proposals and raised issues with regard to the planning permission process; the effect of the proposals on the environment; that the Secretary of State should refuse the Orders and initiate a full, open and transparent investigation into the merits of the scheme and the conduct of Council Officials; the phasing of the

proposals and whether or not the scheme is needed on its own; and that the decision should wait for the formal notices for HS2.

THE COUNCIL'S SUBSEQUENT REPRESENTATIONS

23. The Council made additional representations to the objections in a letter dated 17 May 2019. The Council stated that it may not be helpful to the Secretary of State to continue at great length the discussion on whether, and to what extent, the planning process on the side roads process is best suited to test the merits of the proposal in question as the County Council had previously tested this in the case of *R v. Warwickshire CC ex p. Powergen* (1998) 75 P&CR 89. The Council stated that similar analogies could be found in Section 247 of the Town and Country Planning Act 1990 and an illustration of this principle is provided in the case of *The Clifton and Hotwells Improvement Society v The Secretary of State for Transport* [2005] EWHC 2254 (Admin).

24. The Council stated that the planning process had been conducted entirely properly by them, in accordance with law, and would have been the most appropriate forum to raise issues of need and merit. With regard to the Warwick District Local Plan, pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992/1492 the Council, rather than Warwick District Council, was responsible for granting planning permission in respect of this project. The Council stated that although this scheme was not subject of a specific policy in the Local Plan, it was part of the infrastructure mentioned in Policy DS20 of the District Local Plan and it is specifically referred to in the reasoned justification. The Local Plan Examination looked at the wider planning objectives which the junction will facilitate and, if this scheme did not receive particular attention, it must be have been because no-one objected to it on its own merits.

25. The Council submitted that there was nothing which should lead the Secretary of State to conclude that it is attempting to promulgate a larger scheme by means of dividing into smaller schemes.

26. The Council stated that the evidence for need was amply demonstrated by sources such as Warwick University which chose to support this proposal and have the knowledge and expertise available to reach an informed view. The Council referred to the suggestion that expanding Stoneleigh Junction would only encourage traffic to expand was a common argument, however it was considered by the Council that the robust evidence cited by them regarding likely development in the area suggests that such an argument was not credible in this case.

27. The Council stated that HS2 was only one of a number of future projects of issue. The case for the improvement of Stoneleigh Junction would be compelling even should HS2 never be constructed. It was not a credible argument to suggest that the Council should wait for future developments to actually commence before putting in place highway infrastructure to support it. That would be a dereliction of the Council's function as highway authority to ensure that the local highway network was sufficient to meet developments coming forward.

28. With regard to concerns regarding the possibility of ecological damage resulting from the proposed scheme the Council submitted that, in light of the public benefit which the Council had concluded would flow from the scheme, the correct balancing act had been carried out and that the approval of the proposed orders was warranted.

29. The Council stated that whilst doubts had been cast on the integrity of their decision making process, no instance had been pointed out in which the Council had not followed the procedure prescribed by law and that objecting to the conclusion reached by the Council cannot amount by itself to proof that the decision making process was flawed.

30. The Council stated that there was no evidence to support a conclusion that they are forcing through a larger scheme by a series of schemes and that the project will stand or fall on its own merits.

CONSIDERATIONS FOR DECISION

31. If the Secretary of State is to make the Slip Roads Order he needs to be satisfied under Section 10(2) of the Highways Act 1980 in the following respects:

- The purpose for which the Order is promoted is extending, improving and/or reorganising the Trunk Road system; and
- Having taken into consideration the requirements of local and national planning, including agriculture, that the proposal is expedient for the purpose intended.

32. If the Secretary of State is to confirm the Side Roads Order he needs to be satisfied, under Section 14(6) and Section 125(3) of the Highways Act 1980 respectively, in the following respects:

- In relation to the stopping up of highways, that another reasonably convenient route is available or will be provided before the highway is stopped up; and
- In relation to the stopping up of private access to premises, that: no means of access to the premises is reasonably required; or, that another reasonably convenient means of access to the premises is available or will be provided in pursuance of an order by virtue of section 125(1)(b) or otherwise.

THE DECISION OF THE SECRETARY OF STATE

33. The Secretary of State has considered carefully all the objections to, and representations about, the Orders. The Secretary of State notes that no objections were made to either of the Orders from those parties with a statutory interest. Furthermore, no objections were made specifically to any of the Side Roads Order provisions: the improvement of Dalehouse Lane; the stopping up of highways/accesses; the provision of new accesses; or to the new slip roads the subject of the Slip Roads Order. The objections predominantly relate to the classified road works for which the authority is given through planning permission.

34. The Secretary of State is satisfied that the Council have a valid planning permission for the proposals that are the subject of these Orders (Paragraphs 6.1 to 6.6 of the Council's Statement of Reasons). Any concerns about the planning procedures carried out by the Council, or its officials, in the planning process, including the extent of the consultations carried out, should be addressed to the Council, through their complaints procedures.

35. The Secretary of State notes the Council's evidence of the need for this phase in relation to meeting current and potential future demands on the local road network and he is satisfied that the Council are promoting this phase, the Stoneleigh Junction Improvements, on its own merits. The Secretary of State is therefore satisfied that a decision on these Orders does not need to wait for either the submissions of Orders for Phases 2 and 3 of the A46 Link Road or the formal notices for HS2. Should any Orders for Phase 2 and 3 of the A46 Link Road be submitted to the Secretary of State for making/confirmation in the future, then objections could be raised to them and would be considered by the Secretary of State at that time.

36. The Secretary of State is satisfied that the Slip Roads Order is needed to authorise the construction of two new (realigned) slip roads to connect the A46 Trunk Road with the improved Stoneleigh Road and that this will enable the implementation of the A46 Link Road/Stoneleigh Road junction improvements in accordance with the granted planning permission WDC/17CC015. The Secretary of State has considered the requirements of local and national planning policy, including the loss of any agricultural land presently in use (paragraph 8.4 of the Statement of Reasons) and which, whilst not affected by the Slip Roads Order, is to be affected by the wider scheme and is satisfied that any adverse impacts would be outweighed by the benefits of the implementation of the scheme.

37. In the case of the Side Roads Order the Secretary of State is satisfied with regard to the stopping up of highways that a reasonably convenient route is to be provided; and in relation to the private means of accesses affected by the proposals, that no access to the premises is reasonably required, or that another reasonably convenient means of access to the premises is available or will be provided.

38. 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 making the Slip Roads Order and not confirming the Side Roads Order. Accordingly, the Secretary of State has decided to make 'The A46 Trunk Road (Stoneleigh Junction) (Slip Roads) Order 2019' and to confirm 'The Warwickshire County Council (Stoneleigh Road) Stoneleigh Junction Improvement and Other Works) (Side Roads) No.2 Order 2018 as modified by him in accordance with paragraphs 3 and 4 above.

39. In making the Slip Roads Order and confirming the Side Roads Order 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. Making/confirmation is given on this basis.

40. A copy of this letter has been sent to the objectors and to Jeremy Wright MP. Copies will be made available on request to any other persons directly concerned. Please arrange for a copy of this letter to be made available for public inspection at the offices of the Council where the Slip Roads Order and the Side Roads Order should be placed on deposit for public inspection at such time as it is duly advertised.

RIGHT OF CHALLENGE

41. Notice is to be published of making/confirmation of the Orders. Any person who wishes to question the validity of the made/confirmed Orders, or any particular provision contained therein, on the grounds that the Secretary of State has exceeded his powers or has not complied with the relevant statutory requirements in making/confirming them may, under the provisions of Schedule 2 to the Highways Act 1980, 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 made/confirmed. The High Court cannot entertain an application under Schedule 2 before publication of the notice that the Secretary of State has made/confirmed the Orders.

Yours sincerely

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

DAVE CANDLISH
NATIONAL TRANSPORT CASEWORK TEAM