

1 July 2009

Planning Services Manager  
Wiltshire Council  
Browfort  
Bath Road  
Devizes  
Wiltshire  
SN10 2AT

Our Ref: APP/K3930/V/07/1201863

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77  
APPLICATION BY WILTSHIRE COUNTY COUNCIL  
PROPOSED BYPASS AT WESTBURY, WILTSHIRE  
APPLICATION REF: W.07.09002**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Alan Langton DipTP CEng MRTPI MICE MIHT, assisted by John Yellowley BSc CEng MICE FIHT, who held a public inquiry between 17 June and 8 October 2008 into Wiltshire County Council's ('the Council') application for the construction of a new single carriageway road with a climbing lane over part of the route, roundabout junctions, associated infrastructure and works in accordance with application number W.07.09002 dated 14 February 2007.
2. On 11 July 2007 the application was called in for determination by the Secretary of State in pursuance of section 77 of the Town and Country Planning Act 1990, instead of it being dealt with by Wiltshire County Council, as it was considered that the proposals may conflict with national policies on important matters.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that planning permission be refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and with his recommendation. A copy of the Inspector's full report (IR) is enclosed for the main parties. Other interested parties, for whom only the Inspector's conclusions are enclosed, can obtain a copy of the full report on written request. All references to paragraph numbers, unless otherwise stated, are to that report.

## **Compulsory Purchase and Side Roads Orders**

4. The inquiry also considered whether or not related Compulsory Purchase and Side Roads Orders should be confirmed. Decisions on these Orders are set out in a separate decision letter being issued today by the Secretary of State for Transport, as these are matters which lie within his jurisdiction.

## **Procedural matters**

5. The Secretary of State has had regard to the fact that, on 1 April 2009, Wiltshire Council formally replaced Wiltshire County Council and the District Councils of Kennet, North Wiltshire, Salisbury and West Wiltshire as the new unitary authority for Wiltshire.

## **Matters arising after the close of the inquiry**

6. A schedule of correspondence the Secretary of State received following the close of the inquiry is attached at the end of this letter. The Secretary of State has taken all the representations into account in reaching his decision but, in view of his conclusions below, he does not consider it necessary for him to refer back to the parties on any of the issues raised prior to reaching his decision. Copies of this correspondence can be made available on written request to the address at the foot of the first page of this letter.

## **Environmental Statement**

7. In reaching his decision, the Secretary of State has taken into account the Environmental Statement submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 ("EIA Regulations"). The Secretary of State is content that the Environmental Statement complies with the above regulations and, together with the further environmental information supplied by the applicant and other documents submitted to the Inquiry (IR1.32-1.35), provides sufficient information for him to assess the environmental impact of the application.

## **Policy considerations**

8. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
9. In this case, the development plan comprises the Regional Spatial Strategy for the South West (RSS), published in 2001, the Wiltshire and Swindon Structure Plan 2016 (SP), and the saved policies of the 2007 West Wiltshire District Plan First Alteration (DP).
10. The Secretary of State has also had regard to the emerging RSS for the South West. Proposed Changes to the Draft RSS were published for consultation on 22 July 2008. Given the advanced stage that this document has reached, he affords its policies significant weight.

11. The Council's work towards a Core Strategy is at a very early stage and the Secretary of State affords it no weight in this case.
12. Material considerations which the Secretary of State has taken into account include Planning Policy Statement 1 (PPS1): *Delivering Sustainable Development* and its supplement *Planning and Climate Change*; Planning Policy Statement 7 (PPS7): *Sustainable Development in Rural Areas*; Planning Policy Statement 9 (PPS9): *Biodiversity and Geological Conservation*; Planning Policy Guidance note 13 (PPG13): *Transport*; Planning Policy Statement 24 (PPS24): *Planning and Noise*; Planning Policy Statement 25 (PPS25): *Development and Flood Risk*; and Circular 11/95: *Use of Conditions in Planning Permission*.
13. The Secretary of State has also taken into account the consultation draft, PPS4: *Planning for Prosperous Economies*, published in May 2009. However, as this document is still at consultation stage and may be subject to change, he affords it little weight.

### **Main issues**

14. The Secretary of State considers that the main considerations in this case are those identified in the call-in letter, as set out in IR pages 1-2 and summarised by the Inspector in IR8.4. The Secretary of State's conclusions on these and related matters are set out below.

### The development plan

15. With regard to the existing RSS (RPG 10), the Secretary of State agrees with the Inspector's reasoning and conclusions in IR8.10-8.14. For the reasons he gives there the Secretary of State agrees with the Inspector's view that RPG 10 offers support in principle for the application scheme, but that the degree of such in-principle support depends on the extent to which this particular set of proposals would meet regional and sub regional key aims and objectives (IR8.15).
16. The Secretary of State agrees with the Inspector's reasoning and conclusion on the SP at IR8.16-8.21. He has had regard to Policy T12 which identifies the A350 Westbury Bypass as a proposal included in the Local Transport Plan to enhance the non trunk road strategic network (IR8.17) and agrees with the Inspector that Policy T12 gives support to the principle of the bypass (IR8.20). However, the Secretary of State further agrees with the Inspector that overall compliance with the SP also requires consideration of other, generic policies including those to safeguard the environment (IR8.20). For this reason and those at IR8.21 the Secretary of State considers that the particular proposals do not accord overall with the SP.
17. The Secretary of State agrees with the Inspector's reasoning and conclusion on the DP at IR8.22-8.27. He has had regard to the fact that saved Policy T1a safeguards the County Council's preferred route option for the A350 Westbury Eastern Bypass and the Glenmore Link (IR8.22) but, like the Inspector, he considers the DP does no more than safeguard one possible route pending

decisions outside the DP process both on the general principle and on the particular route (IR8.26).

18. The Secretary of State agrees with the Inspector's overall conclusion on the development plan at IR 8.29. Whilst he finds broad strategic support for an A350 Westbury Bypass in RPG10, he agrees that the particular proposals before him conflict with the landscape protection aims in the SP and DP. For this reason he considers that the proposals conflict with the development plan overall. He has gone on to consider whether there are material considerations which would lead him to determine the case other than in accordance with the development plan.

#### The draft South West RSS

19. The Secretary of State has had regard to the Inspector's consideration of the proposals against the emerging RSS, as set out in IR8.31-8.41. As noted by the Inspector, the Secretary of State's Proposed Changes to the emerging RSS recognise just national and regional corridors, unambiguously omitting the A350 corridor between the A36 and M4 (IR8.37). The Secretary of State has had regard to the Council's argument that they are promoting the bypass solely as a local scheme, but agrees with the Inspector that this does not sit comfortably with their evidence which stresses the A350's importance regionally and inter regionally (IR8.38). Overall, for the reasons he gives, the Secretary of State agrees with the Inspector's conclusion that the emerging RSS signals substantially less support than may be seen in the extant development plan (IR8.42).

#### PPG13 and related transport considerations

20. The Secretary of State has had regard to the fact that the Council's evidence on traffic and economics was subject to considerable change during the inquiry. He agrees with the Inspector that sufficient evidence has been presented on these matters to enable the Inspector to reach his overall conclusions on the proposals (IR8.43).
21. The Secretary of State has given careful consideration to the concerns of residents living alongside the route of the A350 through the town regarding the impact of existing traffic conditions on their quality of life. He agrees with the Inspector that the scheme has the potential to remove a significant proportion of traffic from the town (IR8.44). However, he has not seen evidence to cause him to disagree with the Inspector's view that the overall conditions are fairly typical for an urban road of this type; that outside of the peak hours the route is generally not congested; and that there is little of the peak period spreading in duration which is typical of locations with heavy and extended congestion (IR8.47).
22. With regard to traffic modelling, the Secretary of State has had regard to the matters set out by the Inspector in his preamble at IR1.24-1.38 and agrees with the Inspector's reasoning and conclusions as set out in IR8.48-8.56. He agrees that anomalies for HGV routings revealed by analysis of the assignments are a cause for concern (IR8.51). For the reasons he gives, the Secretary of State further agrees with the Inspector that in its current state, the model is of somewhat limited value (IR8.54).

23. With regard to economic evaluation and induced traffic, the Secretary of State has had regard to the Inspector's reasoning and conclusions in IR8.57-8.61. He observes that revised COBA results appear to demonstrate that the application scheme would represent a satisfactory economic return on the investment (IR8.58). However, for the reasons he gives, the Secretary of State shares the Inspector's view that the evidence from the work done to date implies that the benefits of the scheme are highly sensitive to quite small increases in traffic. He agrees that this adds to concerns on the robustness of the traffic modelling and the errors that have been found in COBA (IR8.61).
24. Having had regard to the Inspector's reasoning and conclusions in IR8.62-8.63, the Secretary of State attaches little weight to the impact on traffic flows in Dorset and at Bath.
25. For the reasons in IR8.64-8.70, the Secretary of State agrees with the Inspector's conclusion that the scheme would not be consistent with PPG13. Overall, the Secretary of State agrees with all the Inspector's reasoning and conclusions as set out in IR8.43-8.70 and does not consider that the transport need for the proposal has been adequately justified.

#### Rural and sustainability considerations

26. As regards landscape impact, the Secretary of State has had regard to the matters set out by the Inspector in IR8.71-8.77 and to his consideration and conclusions in IR8.78-8.95. The Secretary of State has also noted the Council's subdivision of the route (IR8.79) and, for the reasons the Inspector gives, finds this further subdivision of the 'Wellhead Valley' length helpful (IR8.80).
27. The Secretary of State agrees with the Inspector's consideration in IR8.81-8.86, and with his assessment of the landscape effect on the Wellhead Valley length as 'very large adverse' in year 1 reducing no more than to 'large adverse' as the scheme matures (IR8.86). The Secretary of State agrees that this 'large adverse' effect means that the proposals would be very damaging due to the factors identified at IR8.87-8.88. The Secretary of State agrees with the Inspector's reasoning and conclusions in IR8.89-8.94 about the landscape impact on the other lengths of the route, and with his assessment of the overall effects as 'very large adverse' initially reducing to 'large adverse' (IR8.95).
28. As regards visual impact (the effects on views from particular locations, see IR8.72), the Secretary of State agrees with the Inspector's reasoning and conclusions in IR8.96-8.99. The Secretary of State agrees that, as with landscape impacts, slight impacts on views along much of the route do not reduce more severe impacts in the Wellhead Valley, which accordingly warrant an overall assessment of 'severe adverse' (IR8.99).
29. The Secretary of State agrees with the Inspector's reasoning and conclusions on townscape, as set out in IR8.100-8.102.
30. As regards regeneration, the Secretary of State agrees with the Inspector's reasoning and conclusions in IR8.103-8.108. The Secretary of State has had

regard to the Inspector's view that Lafarge Cement Works would clearly benefit from the scheme (IR8.107) and has also taken into account post-inquiry correspondence indicating that the future of the Lafarge Cement works is uncertain. The Secretary of State considers that closure or mothballing of the works would be likely to reduce HGV traffic to some extent. Given his conclusion at paragraph 25 of this letter that the transport need for the proposal has not been adequately justified, the Secretary of State does not consider this correspondence raises any issues which would either affect his decision or make it necessary for him to refer back to the parties prior to reaching his decision.

31. As regards the rural economy, the Secretary of State agrees with the Inspector's reasoning and conclusion at IR8.109 that the scheme would not render any of the affected farm holdings unviable, and that individual impacts would be matters for compensation. For the reasons he gives in IR8.110-8.112, the Secretary of State agrees that there is no reason to conclude that the scheme would lead to a significant boost to tourism. The Secretary of State also agrees that there is little reason to conclude that the scheme would lead to regeneration or increased self containment at Westbury, or more widely in West Wiltshire. Conversely, he also agrees that there would be very real risk that quicker road travel times might encourage rather than reduce the extent of commuting by car (IR8.114), which links to his conclusions on matters relating to PPG13.
32. As regards air quality, the Secretary of State agrees with the Inspector's reasoning at IR8.115-8.119, and with his conclusion that the changes in air quality would not be so significant to create a substantive case either for or against the scheme (IR8.120).
33. As regards noise and vibration, the Secretary of State has taken into account that many more properties would benefit from significant noise reductions than suffer a significant increase. He agrees with the Inspector that this is an important consideration in the scheme's favour (IR8.102 and IR8.123). However, he also agrees with him that it is necessary to balance the benefit from noise reduction along the existing route through Westbury against the negative noise impact for those residents near the scheme, together with users of the footpath and bridleway network (IR8.129). For the reasons given in IR8.124-8.130, the Secretary of State agrees with the Inspector that the Wellhead Valley would be permanently blighted by traffic noise from the scheme, and with his conclusion that the adverse effects there would cause significant harm which adds to concern about the harm to the landscape as a whole (IR8.130).
34. As regards the historic environment and archaeology, the Secretary of State agrees with the Inspector's reasoning and conclusions in IR8.131-8.133. The Secretary of State considers that these matters do not weigh significantly for or against the scheme.
35. As regards drainage, for the reasons given by the Inspector in IR8.134-8.136 the Secretary of State agrees with the Inspector that fears that the Wellhead water supply could be polluted following a road traffic accident are misplaced (IR8.134). Moreover, neither the Environment Agency nor Wessex Water opposes the scheme (IR8.136).

36. With regard to flood risk, the Secretary of State agrees with the Inspector's reasoning and conclusion in IR8.137 that in principle the scheme meets the sequential and exceptions tests in PPS25, subject to satisfactory measures to address flood risk. However, the Secretary of State has also had regard to the Inspector's reservations about the location of compensation excavation intended to replace the volume of flood storage lost to the lower part of the road embankment (IR8.138) and regarding the fact that, during his site visit, he was able to determine that the area of land identified in the scheme would not serve to satisfy its purpose (IR8.139). Notwithstanding his view that this matter would require further investigation prior to any grant of planning permission, in view of his conclusions elsewhere in this letter, the Secretary of State does not consider this to be a matter about which it is necessary to refer back to the parties prior to reaching his decision.
37. The Secretary of State agrees with the Inspector's reasoning and conclusions on contaminated land, as set out in IR8.140.
38. Overall on rural and sustainability issues, the Secretary of State agrees with the Inspector's conclusions as set out in IR8.141. The Secretary of State recognises the benefits that a bypass would bring, especially in terms of noise reduction along the existing A350 route through Westbury, and that a number of hazards have been satisfactorily or substantially addressed. However, he agrees with the Inspector that the application scheme would cause considerable harm to the countryside and landscape, and also result in increased climate change emissions. Thus rural and sustainability matters weigh against the scheme (IR8.141).

#### PPS9 biodiversity considerations

39. The Secretary of State has had regard to the fact that a number of statutorily protected wildlife species would be directly affected by the scheme (IR8.143).
40. For the reasons the Inspector gives in IR8.144-8.145, the Secretary of State agrees that the mitigation proposals would be expected to protect the welfare of the badger population effectively (IR8.145).
41. The Secretary of State has had regard to the Inspector's consideration of protected bat species, the proposed bat mitigation measures and the Bath & Bradford on Avon Bats SAC, including the fact that Natural England has not objected to the proposals (IR8.146-8.151). He agrees with the Inspector that there is no basis on which to conclude that an Appropriate Assessment is warranted (IR8.151).
42. As regards dormice, the Secretary of State agrees with the Inspector's reasoning in IR8.152-8.155, and with his conclusion that the proposals as a whole represent a satisfactory response in the light of the evidence (IR8.155). Likewise, for the reasons that the Inspector gives at IR8.156, the Secretary of State agrees that the effect on newts and the mitigation proposals should be satisfactory. The Secretary of State further agrees that proposed mitigation measures would minimise adverse effects on other protected species (IR8.157). Overall, the

Secretary of State agrees with the Inspector's conclusions on biodiversity for the reasons given (IR8.158).

### **Planning conditions**

43. The Secretary of State has considered the Inspector's proposed conditions, as set out at Annex 1 of his report, his statements in IR8.159-8.168 and national policy as set out in Circular 11/95. The Secretary of State agrees with the Inspector's views and considers that the proposed conditions are reasonable and necessary, and meet the tests of Circular 11/95. However, he does not consider that they would overcome his reasons for refusing planning permission.

### **Alternative Proposals**

44. The Secretary of State agrees with the Inspector's position at IR1.20-1.21 about the status of any alternative schemes. However in the light of the Secretary of State's conclusion regarding the need for a bypass in paragraph 25 of this letter, he considers it is unnecessary to express a view on whether or not the Far Western Route (FWR) might be preferable in terms of balancing adverse impacts against benefits (IR8.223). However, the Secretary of State does agree with the Inspector that, should a FWR be progressed, it would need to be assessed on its own merits (IR8.223).

45. For the reasons given in paragraph 44 of this letter, the Secretary of State does not consider that the Inspector's views on the FWR add any weight to the Inspector's recommendation against the application scheme (see IR8.223). Nor does the Secretary of State accept that the opportunity for the highway authorities to look further at a FWR is a supporting reason to refuse permission for the application scheme (see IR8.227). In this context he does, however, welcome the level of active engagement on alternatives by interested parties and would draw to the Council's attention the opportunity to look further at the various alternatives to address transport issues on the A350 route at Westbury.

### **Overall conclusions**

46. The Secretary of State agrees with the Inspector's overall conclusions on the application in IR8.169-8.175. For the reasons given by the Inspector in IR8.169 he agrees that the strategic significance of the A350 has reduced. Although the Secretary of State accepts that the Council has produced evidence that overcomes what might otherwise be valid objections to the scheme, he considers this evidence cannot be viewed as demonstrating any positive benefits supporting the scheme (IR8.170).

47. There are existing adverse traffic impacts in the town, and the Secretary of State understands fully the views of those living in the town who are most directly affected. However, objectively in absolute terms of traffic volumes, the proportion of HGVs and the accident rate are not exceptional for a Primary Route passing through a town. Traffic delays and journey time unreliability are primarily caused by problems elsewhere rather than on the length of the A350 that would be bypassed. Only slight improvements to air quality and noise would result. Whilst traffic conditions would be noticeably improved, the existing route would remain

busy. All told, although there would be benefits, these would not be of a degree so as to warrant more than moderate harm being created elsewhere.

48. The scheme would do little to encourage modal shift from cars, and might well encourage the reverse, nor of freight to rail notwithstanding Westbury's location at a junction of two main lines. There is no clear evidence of how the scheme would encourage sustainable economic development in the Westbury locality or more widely in West Wiltshire. It would increase climate change emissions and conflict with PPG13. There are significant technical concerns about the traffic modelling and cost – benefit appraisal. Evidence from the work done to date implies that the benefits of the scheme are highly sensitive to quite small increases in traffic, and this adds to concerns on the robustness of the traffic modelling and the errors that have been found in the cost benefit appraisal. Taking all relevant matters into account, the transport need for the proposal has not been adequately justified.
49. The scheme would be very damaging to the landscape and tranquillity of the Wellhead Valley. There would be large adverse effects on the landscape of the proposed route as a whole and severe adverse impacts on views from particular locations. For this reason the Secretary of State considers that the scheme conflicts with development plan policies to safeguard the environment and, in consequence, the development plan as a whole despite the qualified support in principle in certain other development plan policies.
50. Overall, the Secretary of State considers that there are no material considerations that would cause him to decide the application other than in accordance with the development plan.

### **Formal decision**

51. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby refuses planning permission for the construction of a new single carriageway road with a climbing lane over part of the route, roundabout junctions, associated infrastructure and works in accordance with application number W.07.09002 dated 14 February 2007.

### **Right to challenge the decision**

52. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
53. A copy of this letter has been sent to interested parties who appeared at the inquiry.

Yours faithfully

**Julian Pitt**

Authorised by the Secretary of State to sign in that behalf

**Schedule of correspondence received by the Secretary of State following the close of the inquiry**

28 April 2009	Email from Don Grimes
28 April 2009	Email from Peter Matthews
28 April 2009	Email from Stephen Howard
28 April 2009	Letter from Jenny Rust
28 April 2009	Letter from Simon Fairlie
28 April 2009	Letter from Steve Wicks
29 April 2009	Email from David Bailey
29 April 2009	Email from Micah Newman
01 May 2009	Letter from Joyce Field
01 May 2009	Letter from Stephen Joseph of Better Transport, co-signed by others on behalf of other organisations in agreement
07 May 2009	Letter from Rt Hon John Denham MP on behalf of Christopher Gillham
07 May 2009	Letter from Christopher Gillham
09 May 2009	Letter from John Bowley
15 May 2009	Email from Margaret Drabble
20 May 2009	Letter from Christopher Bastian
20 May 2009	Letter from Mr AG & Mrs LM Fish
22 May 2009	Letter from EarthRights Solicitors
2 June 2009	Letter from John Bowley
18 June 2009	Letter from EarthRights Solicitors to DfT copied to CLG
23 June 2009	Letter from Crystal Payne
Undated	Letter from Catherine Bugler