

Office 210
St Nicholas House
31 Park Row
Nottingham
NG1 6QF
T: 01156488810

The Secretary of State for Transport,
National Transport Casework Team,
Tyneside House,
Skinnerburn Road,
Newcastle Business Park,
Newcastle upon Tyne,
NE4 7AR.

22 November 2024

Dear Sirs

**THE LINCOLNSHIRE COUNTY COUNCIL (A1461 NORTH HYKEHAM RELIEF ROAD)
COMPULSORY PURCHASE ORDER 2024 (THE CPO)**

**THE LINCOLNSHIRE COUNTY COUNCIL (A1461 NORTH HYKEHAM RELIEF ROAD)
(CLASSIFIED ROAD) (SIDEROAD) ORDER 2024 (the SRO)**

We are instructed by our client, Colin O'Boyle, to object to the CPO and the SRO (the Orders) on the grounds set out in this letter. Lincolnshire County Council (the Council) have made the Orders to support the delivery the A1561 North Hykeham Relief Road (the Scheme)

Our client's interest in the land included in and affected by the Orders is as follows –

Colin O'Boyle

Plots	Interest	Title Number	Land Description	Reason for Acquisition
287	Freeholder Occupier	LL170853	3936 squared meters of agricultural land, east of Station Road, Waddington, Lincoln	
288	Freeholder Occupier	LL170853	7584 squared meters of agricultural land, east of Station Road, Waddington, Lincoln	Construction Compound, Construction Haul/Access Road, Topsoil Storage, Material Storage, Temporary Water Pond, Construction Working Space

- Address of Client
 - 14 Station Road, Waddington, Lincoln, LN5 9QN

Mr O'Boyle owns and occupies residential property on Station Road and 2.85 acres of his rear garden/paddock are identified for permanent acquisition in the CPO.

Title LL170853 gives Mr O'Boyle's address as 14 Station Road and 6 Faldingworth Close. Mr O'Boyle has not had an interest in the latter for many years and the Council only served notice on this address. Carter Jonas advised the Council of this on 11 November following a meeting with Mr O'Boyle and notices were correctly served by hand 14 November.

Mr O'Boyle has a number of concerns regarding the Orders as promoted by the Council and object to their confirmation on the following grounds –

1. Failure to adhere to Government guidance on engagement and pursuit of acquisition by agreement in advance of application for compulsory purchase powers.

The Ministry of Housing, Communities and Local Government (MHCLG) publish Guidance on the Compulsory Purchase Process (the Guidance). This document sets out detailed guidance for acquiring authorities on the process of applying for compulsory purchase powers including direction for engagement with affected parties. Paragraph 2.2 of the Guidance provides that –

The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to:

- *understand the impact of the exercise of the compulsory purchase powers included in the compulsory purchase order on those with an interest in the land, for example affected owners and occupiers, through direct engagement with those parties.*
- *Attempt the acquisition of all of the land and rights included in the compulsory purchase order by agreement.*

Paragraph 12.3 provides –

a compulsory purchase order should only be made where there is a compelling case in the public interest and reasonable efforts have been made by the acquiring authority to negotiate the purchase of land by agreement.

Paragraph 4.8 of the Statement of Reasons submitted in support of the Orders states -

the Council has engaged with owners of the land within the CPO in order to acquire any affected parties interests voluntarily and is progressing such discussions. Although the Council remains committed to this approach it is necessary for it to have the ability to acquire the land interests by compulsory acquisition, if necessary, to ensure that the Scheme can be delivered in an efficient and certain timescale so as to avoid delay in the Scheme. The Council is satisfied that the acquisition of all of the land interests and new rights is necessary to enable the scheme to proceed. The council will continue to review the acquisition of land as the scheme is progressed to ensure that remains the situation.

We understand from Mr O'Boyle that this statement is inaccurate and that the Council have not engaged with him to seek the voluntary acquisition of land and rights required for the Scheme. My client has not made aware of publicly available guidance in relation to the compulsory purchase process nor were they made aware of professional advice available to them.

The Council have failed to adhere to the Guidance by making no attempt to acquire Mr O'Boyle's land by agreement prior to depositing the Orders.

2. Need case and non-adherence to Department for Transport guidance

Guidance on use of the compulsory purchase powers in the Highways Act 1980 is provided in the Department for Transport's Circular 2/97: Notes on the preparation, drafting and submission of compulsory purchase orders for highway schemes and car parks for which the Secretary of State for Transport is the confirming authority (the Circular).

Paragraph 18 of the Circular provides that -

The Secretary of State for Transport will require to be satisfied in every case that the land included in a CPO can reasonably be regarded as required for the purposes of the acquisition as stated in the order. Where the scheme is one for the improvement or construction of a highway, this will normally mean that the only land to which the CPO should relate will be the land falling within the highway as improved or newly constructed. If land outside these limits is required for use in connection with the improvement or construction of a highway (e.g., as working space), this will need to be made clear and the power in section 240(2)(a) cited.

No description of the purpose for which Mr O'Boyle's land is required is included in the schedule to the CPO and powers to acquire the freehold are sought.

The Council have not complied with the requirements of the Circular.

3. Concerns over projected timescales for the construction of the Scheme.

Paragraph 1.8 of the Statement of Reasons submitted in support of the Orders states –

LCC intends, subject to the decision on the orders, to implement the NHRR at the earliest opportunity. The current programme expects construction to commence during the autumn of 2025. LCC would wish to make it clear however that it intends to carry out early activity on the site of the scheme where such work is feasible and sensible in order to implement the planning permissions where such work does not pre judge or prejudice the consideration of the orders themselves.

Given that the Council deposited the CPO in October 2024 it is unclear how they would have secured all the land and rights needed to deliver the scheme by autumn of 2025. Given our experience of these matters, 12 months is insufficient time for a CPO to be confirmed and compulsory purchase powers exercised.

Concerns over the time scales also raise concerns regarding projected costings and consequently the funding of the scheme.

4. Uncertainty over funding for the scheme

Paragraphs 10.3 – 10.5 of the Council's Statement of Reasons states –

The most likely cost of the scheme is estimated at 193.9m with an overall range of 180.4 to 208.2m, which was reported to the executive in October 2023. That reflected the scheme as shown in the planning application itself.

The funding arrangements for the proposal are also known and will be delivered by relying on three sources of income. The 1st (currently shown as just over £110m) from the Department for Transport, II just under 74 million pounds from LCC itself and thirdly £10 million from developer contributions. Taken together the anticipated cost of the scheme is covered by the combination of the three sources of income.

In addition, on the 4th of October 2023 the government published “ Network North: Transforming British Transport “ which altered the funding arrangements following the announcement of the withdrawal from parts of HS2. That indicated that for certain projects, including the NHRR whereas previously only a percentage of the costs indicated at outline

business case stage would be covered by the department, in future 100% of the cost identified would be awarded. Although the details of that arrangement are not yet known to the council it is anticipated that the figure given above from the Department will be increased.

The funding statement is brief, and it seems from the above that there is a potential shortfall of circa £15m and lack of clarity as to how this would be bridged. This would seem to fall short of the requirements of the Guidance.

What is perhaps more concerning is the apparent reliance on Network North: Transforming British Transport. This was a document that was issued by the previous Conservative Government following the cancellation of Phases 2a and 2b of HS2. This document is not current policy and many of the projects it refers to remain under review.

In summary, there are several issues associated with the promotion of the Orders proposed by the Council that conflict with relevant guidance.

Compulsory purchase is intended as a last resort to assemble land required for projects, but this has not been reflected in the Council's approach to the promotion of the Orders. Mr O'Boyle would urge the Council to engage further to address the concerns listed above and resolve this objection.

Please acknowledge receipt of this letter of objection and send all associated correspondence to the signatory.

Yours faithfully



Andrew Prowse

E: Andrew.prowse@carterjonas.co.uk

T: 01156488810

M: 07977914199