



Llywodraeth Cymru  
Welsh Government

Eich Cyf/Your Ref:  
Ein cyf/Our Ref:  
Dyddiad/Date: 28 October 2015

Dear Sir/Madam,

## **HIGHWAYS ACT 1980**

**THE SWANSEA TO MANCHESTER TRUNK ROAD (A483) AND THE NEWTOWN TO ABERYSTWYTH TRUNK ROAD (A489) (NEWTOWN BYPASS AND DE-TRUNKING) ORDER 201-**

**THE SWANSEA TO MANCHESTER TRUNK ROAD (A483) AND THE NEWTOWN TO ABERYSTWYTH TRUNK ROAD (A489) (NEWTOWN BYPASS SIDE ROADS) ORDER 201-**

**THE WELSH MINISTERS (THE SWANSEA TO MANCHESTER TRUNK ROAD (A483) AND THE NEWTOWN TO ABERYSTWYTH TRUNK ROAD (A489) NEWTOWN BYPASS) COMPULSORY PURCHASE ORDER 201-**

**ENVIRONMENTAL IMPACT ASSESSMENT DECISION UNDER PART VA OF THE HIGHWAYS ACT 1980**

**CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 -  
REGULATION 61: ASSESSMENT OF IMPLICATIONS FOR EUROPEAN SITES**

## **DELEGATION ARRANGEMENTS**

1. The function of deciding whether or not to make the Orders identified above has been transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006. The decision falls under the responsibility of Edwina Hart MBE, CStJ, AM, Minister for Economy, Science and Transport ("the Minister"), one of the Welsh Ministers.



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## **INTRODUCTION**

2. A Public Inquiry (the Inquiry) into the above draft Orders and comments on the Environmental Statement was held from 25<sup>th</sup> June 2015 until 15<sup>th</sup> July 2015. The Inspector was Mr W S C Wadrup BEng (Hons), CEng, MICE, FCIHT.

## **EXISTING CONDITIONS**

3. The A483 and A489 Trunk Roads at Newtown form part of the north-south and east-west strategic traffic corridors through Wales. They meet as urban single carriageways in Newtown creating a pinch point for through traffic, delays for all traffic and impediments for cyclists and pedestrians. There are seven signalised junctions and two roundabouts which also serve 3 industrial estates and large retail outlets. There are no overtaking opportunities along the 6.1km length of trunk road through the town, with average speeds of about 20mph and congestion common place during peak periods and school runs.

4. Some of the main problems experienced in Newtown arise from low headroom/reduced width on the A483 Dolfor Road and A489 Nantoer Railway overbridges, congestion along A483 New Road and A483 Pool Road and conflicts between pedestrians and vehicles at the A483 Dolfor Road/ A489 Llanidloes Road junction.

5. To avoid the low headroom bridges high-sided Heavy Goods Vehicles and high sided agricultural vehicles divert through the residential areas of Garth Owen and Treowen. This in turn compromises the safety of local residents, and in particular school children attending the Treowen and Cedewain Schools.

## **PROPOSED SCHEME**

6. The Scheme would be 6.53km in length and would comprise 5.8km of Wide Single 2+1 Road. This would provide two lanes in one direction and one lane in the opposite direction to allow safe overtaking opportunities. These would be separated by double solid white lines, 1 metre apart, with cross hatching on red surfacing between the lines. In addition, single carriageway trunk roads would be provided: 0.3km at the western terminal, 0.1km at the eastern terminal and 0.11km at Dolfor Road to connect the Scheme into the existing Trunk road network.

7. Five at-grade roundabout junctions and 2.7km of single carriageway new and improved side roads would also be provided. Along the bypass, only the roundabouts would be lit. New or diverted lengths of Public Rights of Way and Private Means of Access would replace those affected by the Scheme.

## **THE ORDERS**

8. Draft Line and Side Roads (SRO) Orders were published on 28 November 2014 and the draft Compulsory Purchase Order (CPO) was published on 9 January 2015. If made, they would authorise: the construction of new lengths of trunk road; the de-trunking of existing trunk road; the stopping up and improvement of highways; the stopping up of private means of access and provision of new means of access;

the acquisition of land and rights necessary for the construction and future maintenance of the new trunk road; associated side roads works; ancillary works and the implementation of measures to mitigate the impact on the environment.

## **THE ENVIRONMENTAL STATEMENT**

### **Consultation**

9. The Environmental Statement (ES) was issued on 28 November 2014, in accordance with Part VA of the Highways Act 1980 (as amended) and EC Directive 2011/92/EU.

10. A “Statement to Inform an Appropriate Assessment” (“SIAA”) that assessed the implications of the Scheme for the Special Areas of Conservation (SACs) and related matters was published with the Scheme’s draft Line and Side Road Orders on 28 November 2014 in accordance with EC Directives and UK Regulations.

11. In accordance with Section 105B of the Highways Act 1980 and Regulation 61 of the Conservation of Habitats and Species Regulations 2010 and Article 6(3) of the Habitats Directive 92/43/EC, Public Notices, were placed in the London Gazette and County Times on 28 November 2014 announcing that it had been determined that the Scheme would be made subject to an Environmental Impact Assessment which was published on the said date and inviting comments, on the ES & SIAA by 23 January 2015. The Notices, together with all of the associated documents, were placed on deposit and sent, together with the Non Technical Summary (NTS) of the ES, to the list of statutory and non-statutory recipients at Annex A.

### **DEPOSIT LOCATIONS**

12. Copies of the draft Orders, ES, NTS and SIAA, were made available for inspection at the following locations:

- i. Orders Branch,  
Welsh Government,  
Cathays Park,  
Cardiff,  
CF10 3NQ.
- ii. Welsh Government Offices,  
Ladywell House,  
Newtown,  
Powys SY16 1JB;
- iii. Powys County Council,  
County Hall,  
Llandrindod Wells,  
Powys, LD1 5LG;
- iv. Powys County Council,  
Neuadd Maldwyn,  
Severn Road,  
Welshpool,

- v. Powys SY21 7AS,  
Newtown Library,  
Park Lane,  
Newtown,  
Powys SY16 1EJ.

## **OBJECTIONS, REPRESENTATIONS AND SUPPORT**

13. 72 objections and 7 representations remained by the close of the Inquiry. There were 133 expressions of support for the principle of the scheme.

## **THE INSPECTOR'S REPORT**

14. I enclose a copy of the Inspector's Report ('the Report'), which the Minister has now considered. While a summary of the Inspector's conclusions is set out later in this letter for ease of reference, this should not be taken as a substitute for the full conclusions included in the Report. All references in this letter to paragraph numbers are to paragraph numbers in the Report unless specifically stated otherwise. This letter sets out the Minister's decision.

15. Copies of the Report, this letter and the ES documents are also available for inspection at the deposit locations listed in paragraph 12 of this letter.

16. The documents and plans, sent in by the Inspector with his Report, are available for inspection during normal office hours at the Welsh Government's Orders Branch, Cathays Park, Cardiff CF10 3NQ.

17. The Inspector has reported in the following manner:

- Section 2 – procedural and legal matters;
- Section 4 - the case for the Welsh Government ("the Government") including the Environmental Statement and the environmental effects of the Scheme;
- Section 5 - the case for the supporters;
- Section 6 - the case for objectors;
- Section 7 - the case for those making representation;
- Section 8 - the Welsh Government's response to objections and representations;
- Section 9 - the alternatives to the draft Orders;
- Section 10 - the Inspector's conclusions; and
- Section 11 - the Inspector's recommendations.

## **INSPECTOR'S CONCLUSIONS ON SPECIFIC ISSUES**

### Legal Submissions

18. While the Inspector records that matters of law are not for him to determine, he nevertheless records his own assessment at paragraphs 10.7 to 10.18. With regard to the claim that the Welsh Government expert witnesses could not act impartially, the Inspector referred to the clear Rules governing Public Inquiries into Highway Schemes and the long standing procedures involving such Inquiries. The Inspector concludes that all the Welsh Government witnesses were professionally qualified; there was clarity in their role; each was subjected to continual testing by

cross-examination and throughout the Inquiry and he detected no evidence of bias in the evidence adduced or answers given in cross examination. The Inspector is satisfied that the evidence presented by the Welsh Government witnesses was professional, balanced and fair.

### Human Rights

19. Human Rights Issues were raised including alleged violation of the “right to enjoyment of property” under Article 1 of the First protocol and Article 8 of the European Convention on Human Rights (ECHR) if the CPO was made and the Scheme constructed. The Inspector’s conclusions on these issues are recorded at paragraphs 10.19 to 10.28. The Inspector referred to the fact that the Welsh Government responses to individual objector proofs consistently rebutted all submissions that Human Rights would be infringed as alleged or at all, highlighting the following issues:

- the scheme was being promoted in accordance with the law in this respect
- the Public Inquiry was a means for a fair hearing
- the scheme would deliver national public economic benefits
- the scheme would deliver public safety benefits
- the scheme would deliver public health benefits through cleaner air.

20. While the Inspector accepts that individual land and property would be adversely affected that would interfere with home and family life, he records that this needs to be weighed against the wider public interest and benefits that the scheme would deliver. The Inspector is satisfied that the impact that the scheme would have is proportionate; the minimum of land would be taken; and compensation would be payable to individuals affected. The Inspector therefore concludes that there would be no violation of the Human Rights of any party arising from the scheme.

### National, Regional and Local Planning Policies

21. At paragraphs 10.31-10.34 the Inspector records that there was an abundance of evidence to show that the scheme would comply with local, regional and National Policy for Transport and the Economy. While landscape and environmental policies would not all be advanced by the scheme, he concluded that these had been vigorously addressed as part of the scheme development and it was demonstrated at the Inquiry that clear strategies were in place to make the impact acceptable. The Inspector concluded that the scheme is supported by most of the Local and National Policies and is compatible with the principles of them.

### The Needs of Agriculture and Agricultural Land Grades

22. While the Inspector concluded at paragraph 10.35 that the effect on Agriculture would be adverse, no land that has been nationally classified as best and most versatile would be affected. He concluded that the effect of the scheme on agriculture overall can be regarded as minor in national terms.

23. At paragraphs 10.36 to 10.37 the Inspector records the concern raised in connection with the downgrading of the agricultural category of the CPO land and the request for an independent review. While drawing attention to the ongoing

dissatisfaction on the matter he deliberately made no recommendation for such a reconsideration.

#### The Capacity of the Existing and Proposed Highway

24. At paragraphs 10.38 and 10.39 the Inspector weighs up the case for a 2 + 1 single carriageway scheme against a 2 lane carriageway scheme and concludes at paragraph 10.40 that a single 2 lane carriageway design would not safely accommodate the 2032 design year traffic demand flows.

#### The Need for Run-Off Attenuation and Floodplain Capacity Replacement

25. In paragraph 10.42 the Inspector concludes that both flooding and water pollution measures would reduce the potential of adverse effects once the scheme is operational and considers the combination of the attenuation ponds and lowering of ground levels would prevent flooding and improve water quality and concludes there is no compelling objective evidence to demonstrate that flooding would occur because of the scheme.

#### Objectives

26. The Inspector concluded that of the 7 specific Welsh Government objectives (paragraph 4.28) set for the scheme, 4 (improving journey time consistency and three local road based objectives) would be achieved with the opening of the bypass and the scheme would facilitate the achievement of the three remaining broader objectives.

#### Funding and Economic Assessment

27. The Inspector considers these issues at paragraphs 10.43 to 10.45 and concludes that the scheme has a proven economically beneficial case and is satisfied that funding would be made available within a reasonable timescale.

#### The Environmental Statement (ES) and the Statement to Inform Appropriate Assessment

28. The Inspector, at paragraph 10.46, records that the Welsh Government's ES was published in accordance with European and UK Directives and notes that all the Statutory Authorities have been consulted in the course of the scheme's development and their responses were included in the ES which he has taken account of in his conclusions.

#### Road Traffic Noise, Construction Noise and Vibration

29. The Inspector concludes at paragraph 10.47 that the scheme would substantially reduce existing traffic noise alongside the A483 and A489 Trunk Roads in Newtown and on other urban roads that periodically carry through traffic. He also accepts that noise would increase into a swathe of countryside south of Newtown but states that dwellings that would be relieved of traffic noise significantly outnumber those that would be burdened by increases. At 10.48 the Inspector records the need for rigid application of Construction Environmental Management Plan and at 10.49 records the commitment to undertake "before and after" property condition surveys.

### Air Quality

30. At paragraph 10.50 the Inspector records that he is satisfied that the Scheme would bring immediate improvements to air quality in Newtown.

### The Landscape

31. The Inspector records his consideration of the impact on the landscape at paragraphs 10.51 -10.55. While he notes the scheme effect would be partially mitigated he concludes that the scheme would have an unavoidable adverse impact especially where the scheme would introduce new engineering forms in the landscape. He concludes that the effect of the scheme on the landscape would be severe and represents the major argument against its adoption.

### The Mochdre Bridge Area

32. The Inspector records at paragraph 10.56 that he is conscious that the effects of this Bridge will be severe on this small and confined community, especially during construction and concluded that it is a major disadvantage to the Scheme and concluded there is a need to correspond with residents on a regular basis so that residents are kept informed of construction activity.

### The Appearance of Bridges

33. The Inspector notes at paragraph 10.57 that after taking advice from the Design Commission for Wales, all structures would embrace a consistent design and that CPRW requested the “highest standards” of appearance for the structures. However, he feels that in view of the sensitive nature of the Mochdre Bridge area the appearance and shape of the structure should be reviewed.

### Cultural Heritage

34. The Inspector concludes at paragraph 10.58 that very little cultural heritage would be adversely affected.

### Individual Objections

35. The Inspector has recorded his conclusions in respect of individual objections at paragraphs 10.60 - 10.160 and should be read accordingly. Specific issues arising out of the Inspector’s conclusions have been considered by the Minister as recorded at paragraphs 65 to 77 of this letter.

## **ALTERNATIVES**

36. The Inspector has recorded his conclusions in respect of the 5 alternatives put forward.

### **ALTERNATIVES 1 and 1A**

37. As these alternatives, primarily put forward to protect the tranquil community in the area around the Mochdre Bridge and Brook Terrace, are very similar with only a minor difference at the tie in to the exiting A489 at the western end of the scheme, for the purposes of comparing them with the scheme the Inspector considered them as one and has recorded his conclusions at paragraphs 10.161 to 10.174. At paragraph 10.173 he concludes:

- the alternatives would be better for agriculture and the landscape
- the alternatives would not burden Mochdre Bridge community and Glandulas Holiday Park
- the alternatives would threaten local employment
- if adopted an alternative would delay the Newtown Bypass
- the scheme would serve Mochdre Industrial Estate better
- the alternatives would have a negative impact on it
- overall the public prefer the scheme to the alternatives
- the scheme would cost significantly less

38. Having regard to all the above the Inspector concludes at paragraph 10.174 that on a fine balance these alternatives should not be preferred to the scheme.

## **ALTERNATIVE 2**

39. The Inspector's conclusions on this alternative, aimed at reducing the effect on Black Hall Farm, are recorded at paragraphs 10.175 to 10.181. At paragraph 10.180 the Inspector summarises his comparison between this alternative and the scheme as follows:

- the alternative would be advantageous to Black Hall Farm
- the alternative would be worse for property elsewhere
- the costs and economics are equal
- the scheme would provide better highway standards
- the scheme would serve the Mochdre Industrial Estate better
- the scheme would offer better diverse access to Newtown

40. At paragraph 10.181 he concludes that the material disadvantages of this alternative outweigh any advantages to be gained for Black Hall Farm and concludes it need not be considered further.

## **ALTERNATIVE 3**

41. The Inspector's conclusions on this alternative, primarily advanced to reduce the impact on Lower Brimmon Farmhouse, safeguard the preservation of a veteran oak tree and avoid an established pond, are recorded at paragraphs 10.182 to 10.189. At paragraph 10.187 the Inspector summarises his comparison between this alternative and the scheme as follows:

- the alternative would be better for Lower Brimmon Farmhouse
- the alternative would cost £900,000 more than the scheme
- the transient advantageous for the pond should be given little weight
- the veteran oak would not be under threat from either option
- the alternative may delay a bypass for Newtown



42. At paragraph 10.189 while the Inspector concludes the alternative need not be considered further, care in the detail of the design and supervision of the works near the veteran oak is essential

#### **ALTERNATIVE 4**

43. The Inspector's conclusions on this alternative, which would move the eastern terminal roundabout further from 6 properties that lie near the A483 are recorded at paragraphs 10.190 to 10.196. At paragraph 10.195 the Inspector summarises his comparison between this alternative and the scheme as follows:

- the relative effects on agriculture are balanced
- the alternative would marginally have less impact on property
- the alternative would be much more expensive than the scheme
- the alternative would remove less traffic from Newtown
- the alternative could delay the Newtown bypass

44. At paragraph 10.196 the Inspector concludes that overall this alternative is clearly inferior to the scheme and should not be considered further.

#### **THE INSPECTOR'S OVERALL CONCLUSIONS FOR THE ORDERS AND SCHEME**

45. These are recorded at paragraphs 10.197 to 10.212.

##### **Line and Trunking Order**

46. The Inspector records at paragraphs 10.197 and 10.198 that the proposed changes to the trunk roads network are both expedient and in the public interest taking account of the requirements of local and national planning, including the requirements of agriculture.

##### **Compulsory Purchase Order (CPO)**

47. These are recorded at paragraphs 10.199 to 10.203. With the exception of the four areas listed in paragraph 10.199 the Inspector is satisfied that the land and rights contained in the CPO are necessary to implement the scheme. At paragraph 10.201 the Inspector draws attention to the need to secure the agreement of NPTC (Coleg Powys) to Modification 2 at Annex C of his report. The Inspector concludes that there is a compelling case for the CPO incorporating the modifications listed at Annex C and Annex D to his report, reproduced at Annex B to this letter.

##### **Side Roads Order (SRO)**

48. These are recorded at paragraphs 10.204 to 10.207. The Inspector is satisfied that a number of modifications that arose have been dealt with in the list of modifications proposed by both himself and the Welsh Government as listed at Annex B to this letter. In doing so the Inspector draws particular attention to the need for access to Mr Jarman's land (Field 0009) to be achieved either by accommodation works or formal modification. Taking this into account at paragraph 10.206 the Inspector records that he is satisfied that under the constraints of the geography of the area reasonably convenient means of passage will be provided by the scheme and therefore the tests set out in paragraph 10.6 have been met.

## **The Scheme**

49. These are recorded at paragraphs 10.208 to 10.212. The Inspector concludes there is a compelling case for the scheme to be implemented; the scheme would achieve its objectives well which would provide substantial public benefit; the stated modifications to the SRO and CPO are needed, none of which make a “substantial change” that would require further representation or consideration and the scheme would not have any disproportionate adverse impacts.

## **MINISTER’S CONSIDERATION**

### **SPECIFIC ISSUES**

#### Legal Submissions

50. The Minister notes the Inspector’s conclusions on this matter. The Minister is satisfied that it is standard practice at Public Inquiries of this nature for the Welsh Ministers to be represented by a team of professionally qualified experts and for their evidence to be properly tested. Indeed, the Minister is reassured that not only did objectors have the opportunity to cross examine and challenge the evidence presented, but that the Inspector himself records that he conducted the Inquiry in an inquisitorial way and where parties to the Inquiry needed help, he did so by assisting them with technical and complex issues that arose. The Minister notes that the Inspector is satisfied that the evidence presented by the Welsh Government witnesses was professional, balanced and fair and that he is satisfied that the Inquiry represented a fair hearing for all concerned and no party was disadvantaged by the absence of professional representation.

#### Human Rights

51. The Minister has noted the Human Rights issues raised and in particular the right to a fair and proper hearing. She agrees with the Inspector that the holding of a Public Inquiry is the correct and well established forum for this to be achieved to ensure that all evidence is fairly and properly tested. As regards the overall merits of the Scheme against the interference of human rights the Minister has summed this up in her overall consideration at paragraph 86 below.

#### National, Regional and Local Planning Policies

52. The Minister notes that the Inspector concludes that the scheme is supported by most of the Local and National Policies and is compatible with the principles of them and is satisfied that the scheme is acceptable on a clear balance of those policies.

#### The Needs and Land Grades of Agriculture

53. The Minister notes and agrees with the Inspector conclusions at paragraph 10.35 that the effect of the scheme on agriculture overall can be regarded as minor in national terms.

#### The Capacity of the Existing and Proposed Highway

54. The Minister notes and agrees with the Inspector’s conclusions that given the likely travel demands on the bypass a single 2 lane carriageway scheme would be

relatively unsafe and notes that he is satisfied that the scheme would provide a highway of sufficient capacity with good opportunities for safe overtaking.

#### The Need for Run-Off Attenuation and Floodplain Capacity Replacement

55. The Minister notes the Inspector's conclusions and is satisfied that there is no compelling objective evidence to demonstrate that flooding would occur because of the scheme.

#### Objectives

56. The Minister notes and agrees with the Inspector's conclusions.

#### Funding and Economic Assessment

57. The Minister has noted the Inspectors conclusions and is satisfied that the confirmation of the funding was established by its inclusion in the National Transport Finance Plan 2015.

#### The Environmental Statement (ES) and the Statement to Inform Appropriate Assessment

58. The Minister is satisfied that the environmental impact of the scheme has been properly addressed and taken account of the requirements of legislation. This is addressed more fully in paragraphs 82 to 84 of this letter.

#### Road Traffic Noise, Construction Noise and Vibration

59. The Minister notes the Inspector's conclusions and re-affirmed the commitment to undertake "before and after" property condition surveys.

#### Air Quality

60. The Minister notes that the Inspector is satisfied that the Scheme would bring immediate improvements to air quality in Newtown.

#### The Landscape

61. The Minister notes the Inspector's conclusions that the scheme would have an unavoidable adverse impact especially where the scheme would introduce new engineering forms in the landscape but she considers that this needs to be considered against the wider benefits the scheme would bring.

#### The Mochdre Bridge Area

62. The Minister is also conscious that the effects of this Bridge will be severe on this small and confined community, especially during construction and agrees that residents should be kept informed of construction activity.

#### The Appearance of Bridges

63. The Minister notes the advice taken from the Design Commission for Wales (DCfW) that all structures would embrace a consistent design and that CPRW requested the "highest standards" of appearance for the structures. However, the Minister agrees with the Inspector's view (paragraph 10.57) that the appearance and shape of the Mochdre Bridge structure should be reviewed. This will be arranged in conjunction with DCfW although the Minister cannot comment on what the outcome of that review will bring.

## Cultural Heritage

64. The Minister notes and agrees with the Inspector that very little cultural heritage would be adversely affected.

## Issues arising out of Individual Inquiry Objections

### Black Hall Farm

65. The Minister notes that her officials have previously advised the owners of the requirements of Blight in the consideration of their objection.

### Sunridge

66. The Minister notes the Inspector's conclusions and agrees before and after property condition surveys should and will be undertaken and agrees with the offer of a permanent barrier during the construction phase.

### Melstone Farm

67. The Minister has noted the Inspector's conclusions (paragraph 10.77) that the proposed pma access 4/9b currently terminates at an unworkably steep piece of ground in field P0009 and endorses the binding commitment to grade out the access track as accommodation works which would solve the problem.

### Gelli

68. The Minister is agreeable to the removal of the triangular parcel of lawn, included in plot 4/4 but notes that this property is subject to ongoing negotiations following acceptance of a Blight Notice.

### Bryneira

69. The Minister agrees with the Inspector that an accommodation bridge across the bypass would not be justifiable. The Minister is however agreeable to the construction of an animal holding pen as accommodation works and is open to further accommodation *works* to be agreed in respect of water supply issues. The Minister also agrees that before and after property condition surveys should be undertaken.

### Brimmon House and Brimmer House

70. The Minister agrees the commitments to the modifications and accommodation works as reported at paragraphs 10.87 and 10.88.

### Lower Brimmon

71. The Minister notes and agrees the modification to reduce the land take earmarked for landscaping near Wern Ddu Lane (paragraph 10.89).

### Brimmon House

72. The Minister notes and agrees the need to re-profile some of the land between Brimmon House and the road in plot 3/3zz and notes other accommodation matters are open to further discussion (paragraphs 10.92 to 10.93).

### Land and Property off Wern Ddu Lane

73. The Minister notes and agrees that security and privacy issues surrounding the private means of access will be adequately addressed by it being fenced, gated and locked. The Minister also notes that the Inspector is satisfied that the provision of a layby is not dependent on the offer of a Traffic Regulation Order (TRO) restricting parking. The need for such a TRO will therefore be kept under review.

#### The Gables

74. The Minister agrees with the Inspector's recommendation to try to secure agreement on various accommodation issues described in paragraph 10.102.

#### Tyn y Green

75. The Minister acknowledges that the Inspector has noted Mr Jones' concerns about the property's private water main and appropriate diversions of the private water main will be provided.

#### Cycling and other NMU Provision

76. The Minister notes the concerns as recorded at paragraphs 10.199 and 10.120. The Minister agrees with the Inspector that while the scheme's 4 trunk road roundabouts should not be reduced in size cycling facilities should be built into the design of these roundabouts.

#### Issues Arising out of Written Objections

77. The Minister has considered and sees no reason to disagree with the Inspector's conclusions at paragraphs 10.121 to 10.160 and the recommended actions at paragraphs 10.122 (Glandulas Holiday Park); 10.123 (Coleg Powys); 10.126 (Mr Richards); 10.136 and 10.58 (modified cycling provision); 10.144 (Avondale); 10.151 (Mochdre Bridge); and paragraph 10.160 (landscaping review).

## **ALTERNATIVES**

### Alternative 1 and 1A

78. The Minister has noted carefully the Inspector's conclusions, in particular the benefits and dis-benefits of these alternatives compared to the scheme. The Minister recognises the adverse visual impact the scheme will have in the Mochdre area but after considering all the issues the Minister agrees with the Inspector that these alternatives should not be preferred to the scheme.

### Alternative 2

79. While noting the effect on Black Hall Farm, the Minister acknowledges the Inspector's conclusions and agrees that while this alternative has advantages for Black Hall Farm they do not outweigh the material disadvantages of this alternative and agrees it need not be considered further.

### Alternative 3

80. While the Minister notes the reasons for this alternative, she agrees with the Inspector's conclusions that this alternative need not be considered further. However, in doing so the Minister agrees that care in the detail of the design and supervision of the works near the veteran oak is essential and notes the Inspector is satisfied with the proposed construction methods described in paragraphs 10.183 -10.184.

#### Alternative 4

81. While noting this alternative has been put forward to move the eastern terminal roundabout further from 6 properties that lie near the A483, the Minister accepts the benefits it would bring do not outweigh those of the scheme and agrees with the Inspector that this alternative is clearly inferior to the scheme and should not be considered further.

#### **ENVIROMENTAL STATEMENT AND STATEMENT TO INFORM AN APPROPRIATE ASSESSMENT**

82. The Minister has carefully considered the case for the Scheme, the ES and all the opinions expressed on the ES by members of the public and consultation bodies and notes the Inspector is satisfied that it was published in accordance with European and UK legislative requirements. The Minister accepts that this Scheme is needed to address the existing problems outlined in paragraphs 3 to 5 of this letter, but that this need must be balanced against the environmental impact of the Scheme and any opinions expressed by members of the public and consultation bodies.

83. The Minister is satisfied that responses to the ES have been adequately addressed and notes that the Inspector records that nobody was critical of the ES during the Inquiry proceedings. The Minister is satisfied that the environmental impact assessment, reported in the ES, meets the requirements of Council Directive 2011/92/EU. The Minister is also satisfied that the Assessment of Implications on European Sites reported in the SIAA is in accordance with the Conservation of Habitats and Species Regulations 2010, implementing Council Directive 92/43/EC. The Minister notes the conclusion in the SIAA that, even in the absence of mitigation, the scheme would not be likely to have a significant effect on the Montgomery Canal SAC, whether alone or in combination with other plans and projects, and that Natural Resources Wales has endorsed that conclusion. The Minister also notes that the Minister for Natural Resources is satisfied that the Scheme may proceed in accordance with Regulation 61 of the Habitats and Species Regulations 2010.

84. The Minister is therefore satisfied that the comments made following the publication of the ES and SIAA have been carefully and properly considered and that none of the issues raised require further changes to the Scheme proposals/mitigation measures and thus the ES.

#### **MINISTER'S DECISION AND MAKING OF THE ORDERS**

85. The Minister has found nothing to disagree with the Inspector's overall findings and has accepted the Inspector's recommendations at Section 11 that the Orders can be made incorporating the modifications at Annex C and Annex D of the Report and reproduced in Annex B to this letter.

86. In accepting the Inspector's recommendations, the Minister has carefully considered whether the purposes for which the CPO was prepared, incorporating the

modifications put forward at the Inquiry and the modification put forward by the Inspector, sufficiently justify interfering with the human rights of those with interests in the affected lands and who will otherwise be affected by the scheme. The Minister is satisfied that such interference is justified since the Minister is satisfied that there is a compelling need in the public interest for the land, the subject of the CPO, to be compulsorily acquired to deliver the Scheme. The Minister is satisfied that the purposes of the Orders could not be achieved by other means. In particular, the Minister has considered the provisions of Article 8 of, and Article 1 of the First Protocol to, the European Convention on Human Rights. In this respect the Minister is satisfied that in making the CPO a fair balance has been struck between the use of compulsory purchase powers, the relevant orders and the rights of the objectors, including those not included in the CPO.

87. Consequently, the Minister has decided that this much needed improvement can proceed and the draft Orders can be made incorporating the modifications detailed in Annex B to this letter (subject to the landowners agreement to modification 2 in respect of the CPO to be reaffirmed in view of the Inspector's comments). The timing for the making of the Orders will follow a review of the available resource position for the Scheme as indicated in the National Transport Finance Plan 2015. The Orders will then become operative on the date on which the notice announcing their making is first published.

## **CONVEYANCE OF DECISION**

88. This letter and the enclosed ES Public Notice (PN) have been sent to all those who expressed an opinion on the scheme and other interested parties and can be viewed at <http://wales.gov.uk/topics/transport/roads/schemes/reports/?lang=en>. Copies of this letter, the Inspector's Report and the enclosed PN, together with the ES, and SIAA are also available for inspection at the locations listed in paragraph 12 above until 11 December 2015.

## **RIGHT OF CHALLENGE**

89. If any person aggrieved by the Line or SRO desires to question the validity of them, or of any of the provisions contained in them, on the ground that:

- a. it is not within the powers of the Highways Act 1980; or
- b. that any requirement of the Act or of regulations made under it has not been complied with,

that person may, within 6 weeks of them becoming operative make an application for the purpose to the High Court.

90. If any person aggrieved by the CPO desires to question the validity of the Order, or of any of the provisions contained therein, on the ground that:

- a. the authorisation of a compulsory purchase thereby granted is not empowered to be granted under the Acquisition of Land Act 1981 or any such enactment as is mentioned in section 1(1) of the Act; or

b. any relevant requirement has not been complied with,  
that person may, within 6 weeks of it becoming operative make an application to the  
High Court.

Yours faithfully

A handwritten signature in grey ink, appearing to read 'R Morgan', with a stylized flourish at the end.

**RICHARD MORGAN**  
**Head of Asset Management and Standards**  
Network Management Division



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Martin Watkin, NPT College, Brecon.  
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I C Norris (Jones Norris Adams), London.  
M Langford, Pwllan, Newtown.  
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C Jones, Berrys, Shrewsbury.  
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Peter Oakes and Mrs T Mary, Glanhafren Hall, SY16 4HZ.  
Mr I C & Mrs J Mason, The Beeches, SY16 4HZ.  
Mr C N Clayton, Upper Brimmon Farm, SY16 3AE.  
Mr J G & M W A Clayton, Great Brimmon Farm, SY16 3AE.  
D Lyndon & Mrs E E P Clark, Cefn-y-Faesdre, SY16 4DR.  
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## MODIFICATIONS SOUGHT BY THE WELSH GOVERNMENT

All modifications proposed by the Welsh Government are set out below.

### Modification Number 1 – CPO

This would change the draft CPO to reflect changes in ownership in land plots. It would introduce a new interest 1/13, which would result in amendment to Interest 1/8.

Plots 1/8, 1/8a, 1/8b, 1/8c, 1/8d, 1/8v, 1/8w, 1/8x, 1/8y, 1/8z and 1/8aa would be removed from the CPO Schedule and Plots 1/8bb, 1/8cc, 1/13, 1/13a to 1/13h, 1/13j and 1/13k would be added to the Schedule and Plan. There would be no net increase in land area, or in its designation.

### Modification 2 – SRO & CPO

#### SRO

The SRO modification would reflect the written wishes of the land-owner to realign Public Footpath FP251/3 to follow the northern boundary fence line of the scheme to the west of Mochdre Brook.

A new access would be provided to the severed southern section of field D0008 on SRO Site Plan 1 by stopping up existing access 1/8 and including a diverted PMA 1/8A through land earmarked for attenuation pond 1/A East. Highway 1/L on SRO Site Plan 1 would be located to the south of the scheme as far as Coleg Powys underpass, which would then be re-designated as a bridleway. Diverted PMA 1/7b should follow this alignment.

#### CPO

The CPO modification to the permanent land-take to the south of the scheme would reduce the acquired land to allow livestock to pass beneath the proposed Mochdre Bridge and gain access to the severed land north of the scheme.

The pursuant SRO Order changes would be to replace Ref 1/K and Ref 1/L with modified alignments and amend the description of PMA 1/7 to recognise “field” instead of “fields”.

They would also modify the details of Ref 1/6b and Ref 1/7b and add a new stopped up length of PMA 1/8 and a new length of 1/8a.

The pursuant CPO changes would be to remove Plots 1/9, 1/10, 1/10c, 1/10L, 1/10m, 1/10n, 1/10q, 1/10v, 1/10x, 1/10LL, 1/10xx, 1/10ddd, 1/10jjj, 1/10ppp and 1/10uuu.

Correspondingly, Plots 1/9f, 1/9g, 1/9h, 1/9j, 1/9k, 1/9L, 1/10www, 1/10xxx, 1/10yyy, 1/10zzz, 1/10aaaa, 1/10bbbb, 1/10cccc, 1/10dddd, 1/10eeee,

1/10ffff, 1/10gggg, 1/10rrrr, 1/10ssss, 1/10tttt would be added, with Plots 1/10aa, 1/10mm, 1/10nn, 1/10qq, 1/10rr and 1/10sss amended. New Plots 1/10hhh, 1/10jjj, 1/10kkkk, 1/10LLLL, 1/10mmmm, 1/10nnnn, 1/10pppp and 1/10qqqq would be incorporated.

There would be no net increase in land taken from Powys CC but the net increase in land that would be taken from the NPTC Group would be 1507 sq m (title) and 647sq m (easement).

#### Modification 3 – CPO

At the request of the landowner, CPO Plot 2/3a would be replaced by Plot 2/3b and would be increased by 57 sq m, from 25 sq m to 82 sq m.

Plot 2/4c would be replaced by Plot 2/4k and would be reduced in area from 127sq m to 70 sq m, resulting in a net decrease in land take of 57 sq m to counterbalance the increase specified above.

#### Modification 4 – CPO

In the CPO Schedule - add Plots 2/1n, 2/1p to 2/1z to the CPO and Plots 2/1aa to 2/1cc to the Interest 2/1.

Remove Plots 2/20b, 2/20c, 2/20j to 2/20n and 2/20p to 2/20r, all with updated contact and address details. Contact and address details would also be updated for Plots 2/20, 2/20a and Plots 2/20d to 2/20h.

Remove Plots 2/19, 2/19b, 2/19c, 2/19d and 2/19e. There would be no overall net increase in the land to be acquired.

#### Modification 5 - CPO

At the request of the landowner, introduce a new Plot 2/15b of 900 sq m to the CPO.

#### Modification 6 – CPO

Remove Plots 3/3a, 3/3b, 3/3e, 3/3f, 3/3h, 3/3k, 3/3m, 3/3n, 3/3ff, 3/3jj, 3/3vv, 3/3zz from the CPO.

Add plots 3/3ggg, 3/3hhh, 3/3jjj, 3/3kkk, 3/3LLL, 3/3mmm, 3/3nnn, 3/3ppp 3/3qqq, 3/3rrr, 3/3sss, 3/3ttt, 3/3uuu, 3/3vvv, 3/7, 3/7a, 3/7b, 3/7c and 3/7d to the CPO. The overall net decrease in land to be acquired would be 8,144 sq m.

Reduce the area of land earmarked for regrading at the request of the owner. Amend the ownership of some plots in favour of Mr Gareth and Mrs Audrey Clayton and adjust the plots to reflect the true extent of the bridleway BW253/N15 diversion.

#### Modification 7 - was not used

## Modification 8 – SRO and CPO

Change the details in the Schedule 3 of the SRO to remove a minor typographical error and change the CPO schedule to reflect the correct address details of three of the scheduled landowners for interests 2/21, 2/24 and 4/3.

## Modification 9- CPO

Introduce changes in the Scheduling of Plots 4/11, 4/11a to reflect current ownership by Welsh Ministers. Interest 4/6 and CPO Plots 4/6 and 4/6a would no longer be used.

## Modification 10 – SRO & CPO

### SRO

Incorporate a new PMA, 4/14a extending from Wern Ddu Lane to field OS0900.

### CPO

Replace CPO Plots 4/2c, 4/2k and 4/2t in the CPO and replace them by Plots 4/2LL, 4/2mm, 4/2nn, 4/2pp and 4/2qq. There would be no net increase in the land area to be acquired.

Add CPO Plot 4/8c (of 21 sq m) to provide access as an accommodation works on Mrs Glenys Jarman Jones land.

## Modification 11 – CPO

Reduce the original Plot 4/1a by 926 sq m and increase original Plot 4/ff by 926 sq m.

Introduce two new plots -Title Plot 4/1qq and Licence Plot 4/1rr.  
Reduce the permanent land acquisition from Mr R E Jones by 926 sq m.

## MODIFICATIONS TO THE ORDERS RECOMMENDED BY THE INSPECTOR

## Modification 12 - SRO

On SRO Plan 4 access for Mr Jarman to Field P0009 is shown as PMA 4/9b, terminating at the boundary between Fields P0009 and P0008. Beyond that point field P0009 falls away at such a steep gradient as to make the SRO access proposal impracticable.

In the absence of an agreed accommodation works in the Register of Commitments (ID 159) the Site Plan should be modified to show an extension of this access for a distance in the order of 40 metres initially in a northern direction and then in an easterly direction to enable the construction of a properly graded means of access into Field P0009 (to be achieved by agreed accommodation works).

Accordingly CPO Plot 4/2u could be retained with the remaining length of new access in P0009 undertaken as necessary accommodation works.

References in this report are paragraphs 6.15, 8.26 and 8.27.  
Modification 13 - CPO

On CPO Plan Sheet 4 and as detailed in the CPO Schedule on page 114 thereof reduce the size of CPO Plot 4/4 (4,928 sq m) to exclude the triangular piece of land currently in the back garden of Gelli.

The triangle, with the scheme constructed, would lie between the existing Cambrian railway fence line, the new fence line at the top of the cutting to the proposed side road connection from the new roundabout back to the existing A483 to Newtown, and the fence line at the bottom of the bypass embankment. This reduction in the CPO would be in favour of that piece of land remaining in the ownership of Mr Peter and Mrs Karen Harris. The triangular area would not be needed for the construction of the scheme, or to mitigate its effects and its area would be in the order of 400 sq m.

References in this report are paragraphs 6.33 and 8.32.

Modification 14 - CPO

On the CPO Schedule, page 98, re CPO Plot 4/1 etc change the name of the occupier from Mr Dilwyn Richard to Mr Dilwyn Richards.