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1 May 2014

Addressee as on envelope

Dear Sir or Madam

**HIGHWAYS ACT 1980  
ACQUISITION OF LAND ACT 1981  
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT  
1990 – SECTION 12**

**A21 TONBRIDGE TO PEMBURY DUALLING**

1. We are directed by the Secretary of State for Transport and the Secretary of State for Communities and Local Government (“the Secretaries of State”) to refer to the concurrent public inquiries (“the Inquiry”) that sat for a total of 13 days between 14 May 2013 and 9 July 2013 before Jane V Stiles BSC(Hons) Arch DipArch RIBA DipLA CMLI PhD MRTPI an independent Inspector appointed by the Secretaries of State, to hear objections to, and representations about, the following draft orders and applications for Listed Buildings Consent:

**Draft Orders**

**THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING) ORDER 20.. (“the TRO”)**

**THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING) (DETRUNKING) ORDER 20.. (“the DO”)**

**THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING SIDE ROADS) ORDER 20.. (“the SRO”)**

**THE A21 TRUNK ROAD (TONBRIDGE TO PEMBURY DUALLING)  
COMPULSARY PURCHASE ORDER 20.. (“the CPO”)**

**THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS  
DUALLING) ORDER 1996 (REVOCATION) ORDER 20.. (“the TRREO”)**

**THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS  
DUALLING SIDE ROADS) ORDER 1996 (REVOCATION) ORDER 20.. (“the  
SRREO”)**

**THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS  
DUALLING SLIP ROADS) ORDER 1996 (REVOCATION) ORDER 20.. (“the  
slip RREO”)**

**THE A21 TRUNK ROAD (TONBRIDGE BYPASS TO PEMBURY BYPASS  
DUALLING) (DETRUNKING) ORDER 1996 (REVOCATION) ORDER 20..  
 (“the DREO”)**

#### **Listed Building (LB) Consent Applications**

**APP/M2270/V/10/2126410 – application for the demolition of Burgess Hill Farmhouse and Barn at Burgess Hill Farm, Pembury Road, Capel, Tonbridge, Kent in accordance with application reference TW/09/03911/LBCDEM received by Tunbridge Wells Borough Council on 11 December 2009.**

**APP/M2270/V/10/2127645 - application for the demolition of three curtilage listed structures: Oast House, Garages (also known as a storage building) and stables (also known as a Byre) within the Burgess Hill Farm complex at Burgess Hill Farm, Pembury Road, Capel, Tonbridge, Kent in accordance with application reference TW/10/01219/LBCDEM received by Tunbridge Wells Borough Council on 9 April 2010.**

2. On 22 April 2010, the Secretary of State for Communities and Local Government directed, in pursuance of Section 12 of the Planning (Listed Buildings and Conservation Areas) Act 1990, that the applications be referred to him instead of being dealt with by the relevant planning authority, Tunbridge Wells Borough Council.

3. This letter conveys the decision of the Secretaries of State on whether the above orders should be made and on the applications for Listed Building Consent granted in accordance with their respective powers following their consideration of the Inspectors report.

4. The purpose of the draft orders if made as published, is to provide for the dualling of 4.1 km of the A21 Trunk Road between Tonbridge and Pembury in place of the existing single carriageway.

## **THE INSPECTOR'S REPORT**

5. A copy of the inspector's report is enclosed. In this letter references to paragraph numbers in the Inspector's report are indicated by the abbreviation "IR".

6. It is recorded in Appendix 8 of the inspector's report that there were a total of 150 objections to the draft orders. 16 of these were from statutory objectors four of which were subsequently withdrawn. The main grounds of objection are briefly summarised at IR 2.48.

## **THE DECISION OF THE SECRETARIES OF STATE**

7. The Secretaries of State have carefully considered the Inspector's report together with all the objections, alternative proposals, counter objections, representations and expressions of support made, both orally and in writing, and all post-inquiry correspondence. In reaching their decision, they have also considered the requirements of local and national planning, including the requirements of agriculture, as required by section 10(2) in Part II of the Highways Act 1980.

8. The Secretaries of State are satisfied that the Inspector's conclusions cover all material considerations and propose to accept her recommendations, subject to the comments in the following paragraphs.

### **Decision on the Environmental Statement**

9. The Secretary of State for Transport ("the SoSfT") is satisfied that the requirements of European Directive No. 85/337/EEC, as amended by Directive No. 97/11/EC and Directive No. 2003/35/EC, as consolidated in Directive 2011/92/EU, implemented by sections 105A, 105B, 105C AND 105D of the Highways Act 1980, have been complied with fully in respect of the published scheme ("the project" for the purpose of the Directive). The SoSfT is also satisfied that the Environmental Impact Assessment undertaken for the project and the Environment Statement, have properly identified, assessed and addressed all significant environmental effects, and considered and given reasons for dismissing the main alternatives, as well as assessing the proposed measures to minimise these impacts. The SoSfT is satisfied that members of the public and others concerned have been given reasonable opportunity to express their opinion before deciding whether to proceed with the project to which the assessment relates. Therefore, having considered the Statement and any opinions expressed on it by the public and others, and taking into account the Inspector's conclusion at IR 11.106 the SoSfT has decided to proceed with the project to which the assessment relates. For the purpose of section 105B(6) of the Highways Act 1980, publication of the SoSfT's decision to proceed with the scheme will be given by public notice as set out in 105B(7).

## **Procedural Matters**

10. The Secretaries of State note the Inspector's handling of the various procedural matters at the Inquiry, recorded at IR 1.1 to IR 1.12.

11. The Secretaries of State are satisfied with the way the Inspector dealt with all these matters and agree with her comments and handling on each of them as set out in her report. They are therefore satisfied, as a result, that no one was prejudiced or prevented from putting forward their case at the time, and that the Inspector took into account all relevant evidence and came to a reasonable decision in all the circumstances.

12. The Inspector describes the Stables (also known as the Byre) as being Grade II listed as attached to the Barn (IR 2.14), rather than being a curtilage listed structure as indicated on the LB consent application form and as reproduced in the description of the application at paragraph 1 above. The Secretaries of State note that the Inspector's description conforms with the Statement of Common Ground agreed between the applicant and English Heritage of February 2013 and also agrees with the Council's Proof of Evidence, which were both before the inquiry. They are satisfied that the Stables has Grade II listed status and the applications have been determined on that basis.

13. The Secretaries of State note that the Department for Communities and Local Government launched national Planning Practice Guidance ('the planning guidance') on 6 March 2014 since the close of the Inquiry. The planning guidance applies from that date and cancels previous planning practice guidance documents. Further information regarding the planning guidance can be found on the Planning Portal: <http://planningguidance.planningportal.gov.uk/>. A list of the cancelled documents can be found at: [http://www.planningportal.gov.uk/uploads/cancelled-guidance\\_06032014.pdf](http://www.planningportal.gov.uk/uploads/cancelled-guidance_06032014.pdf). In considering this matter the Secretaries of State are satisfied that the launch of the planning guidance does not raise any new issues which might affect their decisions on this case.

## **Policy considerations**

14. In respect of the proposed demolition of the group of listed buildings at Burgess Hill Farm, the Secretaries of State have had special regard to the desirability of preserving the listed buildings in their settings or any features of special architectural or historic interest which they possess, as required by section 16(2) [and 66(1)] of the Planning (Listed Building and Conservation Areas) Act 1990.

15. Other material considerations which the Secretaries of State have had regard to include the National Planning Policy Framework (the Framework), the planning guidance and the policy documents identified by the Inspector at IR 11.17 to IR 11.32.

## **Decision on the orders**

16. The Secretaries of State, in considering the Inspector's report, make the following comments on matters raised in the report:

### **Traffic and Engineering**

17. The Secretaries of State note that there were a number of objections to the published scheme in relation to traffic and engineering. The Secretaries of State in considering these matters note the Inspector's comments in IR 11.63 to IR 11.97 and the comments from the Highways Agency at IR 4.34 to IR 4.35, IR 10.34 to IR 10.36, IR 10.38 to IR 10.39, IR 10.46, IR 10.159 to IR 10.162, IR 10.178 to IR 10.192, IR 10.227 to IR 10.229, IR 10.231 to IR 10.233 and IR 10.250 to IR 10.252. The Secretaries of State particularly note her conclusion in IR 11.72 that there is no hard evidence to support the view that the published scheme would result in only limited time savings and would merely shift the congestion problem further down the A21. They also note her conclusion at IR 11.74 that although there are concerns that the increased speed limit would result in the increased frequency and/ or severity of accidents, there is no reasoned challenge to the assessment of accident benefits for the Proposed Scheme which has been undertaken by the promoter. The Secretaries of State, after considering all the evidence, accept the Inspector's conclusion at IR 11.98, and agree with the reasoning and findings, that, subject to the corrections and modifications set out in paragraph 31 below, none of the engineering related objections would prevent the making of the Orders.

### **Character and Appearance of the Surrounding Landscape**

18. The Secretaries of State note that a number of objectors believe that the published scheme would be harmful to the character and appearance of the surrounding landscape having regard to the location of the site in the High Weald Area of Natural Beauty and the close proximity to the Somerhill Estate (Grade II) Registered Historic Park and Garden. The Secretaries of State when considering this matter note the Inspector's comments in IR 11.107 to IR 11.121 and the comments from the Highways Agency at IR 10.199 to IR 10.200. Having regard to IR11.110, the Secretaries of State, consider that the Proposed Scheme constitutes a major development in the Area of Outstanding Natural Beauty. In respect of the third part of the test set out in paragraph 116 of the Framework, they agree with the Inspector's conclusion at IR11.121 that the landscape planting and engineering design (i.e. levels) would help to mitigate adverse impacts upon the character of the rural sections of the Published Scheme. In respect of the first and second parts of the test, they are satisfied that the case for the need for the development and the cost of, or scope for, development elsewhere has been adequately assessed by the Inspector, including in her comments at IR11.42-11.62.

## **Ecology and Nature Conservation**

19. The Secretaries of State note that some objectors expressed concerns that the published scheme would negatively impact on the local ecology, nature conservation and biodiversity. The Secretaries of State when considering these matters note the Inspector's comments and reasoning in IR 11.122 to IR 11.128 and IR 11.130 to IR 11.131 and the comments from the Highways Agency at IR 4.47, IR 4.51 to IR 4.57, IR 10.62, IR 10.279 to IR 10.284 and inquiry document HA8/2. The Secretaries of State note that the Inspector acknowledges that the published scheme is likely to have adverse impacts for locally valuable habitats and features notably ancient woodland but she also reports that extensive ecological mitigation measures are proposed (IR 11.126). The Secretaries of State also note that the Inspector acknowledges concerns of objectors with the loss of established heathland but also note that the Inspector considers that substantial mitigation and enhancement for this habitat is proposed (IR 11.128). The Secretaries of State, after considering all the evidence, accept the Inspector's conclusions at IR 11.129 that the Scheme is justified in terms of the Framework and local policy and her conclusion at IR 11.130 that the objection of the Kent Wildlife Trust is not sustained.

## **Air Pollution and Greenhouse Gases**

20. The Secretaries of State note that a number of objectors had concerns over the possible increases in air pollution and greenhouse gas emissions. The Secretaries of State in considering these concerns have decided, for the reasons the Inspector has given in IR 11.132 to IR 11.136 and IR 11.138 and after considering the Highways Agency response in IR 10.271 to IR 10.275, to agree with the inspector's conclusions in IR 11.137 and IR 11.139. They agree that the published scheme would not result in any new exceedances of the national air quality objectives (IR 11.137), would not result in any conflict with national air quality control policies in the matter of locally significant air quality parameters (IR 11.39) and is assessed as neutral to the achievement of local air quality criteria and policy objectives in the Revised Environmental Statement (IR 11.139).

## **Noise**

21. The Secretaries of State note that a number of objectors believe that the published scheme would result in an increase of noise levels. The Secretaries of State in considering these concerns have decided, for the reasons the Inspector has given in IR 11.140 to IR 11.153 and after considering the Highways Agency response in IR 10.42 to IR 10.45, IR 10.150 to IR 10.52, IR 10.164 to IR 10.166, IR 10.242 to IR 10.248, IR 10.263 to IR 10.268 and IR 10.193 to IR 10.198, to agree with the Inspector's conclusions in IR 11.146, IR 11.148 to IR 11.150 and IR 11.152 to IR 11.153. They agree that whilst there might be an increase in noise levels in some areas, more receptors would experience a decrease in traffic noise levels (IR 11.146).

## **Road Drainage and the Water Environment**

22. The Secretaries of State note the concerns of the Bourne Mill Residents at IR 6.3 to IR 6.25 and they note that the Bourne Mill Residents remain of the opinion that the flood risk modelling remains ill considered, inaccurate and incorrect (IR 6.22). The Secretaries of State in considering this matter note the Inspector's comments in IR 11.154 to IR 11.159 and the comments from the Highways Agency at IR 10.8 to IR 10.20 including the Inspector's conclusion that a Flood Risk Assessment of the published scheme's effects has been undertaken in accordance with guidance, has been independently checked and found satisfactory and agreed in principle with the Environment Agency (IR 11.156). The Secretaries of State, after considering all the evidence, accept the Inspector's conclusion at IR 11.160, and agree with the reasoning and findings, that mitigation measures are integral to the published scheme in order to neutralise potential effects on surface water and groundwater resources and the published scheme meets water quality policy objectives.

## **Loss of Ancient Woodland**

23. The Secretaries of State note that a number of objectors were concerned at the loss of 9 ha of ancient woodland. The Secretaries of State in considering this matter note the Inspector's comments and reasoning in IR 11.227 to IR 11.243 and the comments from the Highways Agency at IR 10.2 to IR 10.7. The Secretaries of State note that the Highways Agency assess the residual direct impact of the published scheme in terms of Ancient Woodland to be moderate adverse while the Woodland Trusts position is that it would be high adverse (IR 11.228). The Secretaries of State accept that the scheme would lead to a loss of 9 ha of ancient woodland, however, the Secretaries of State note that the Inspector concludes that she attaches weight to the fact that neither Natural England nor the RSPB disagrees with the Highway Agency's assessment of the impact of moderate adverse in terms of residual direct impact on Ancient Woodland (IR 11.228) and her consideration that to attempt translocation to appropriate receptor sites and to strive for saving as much biodiversity as possible would be highly worthwhile given that Ancient Woodland is irreplaceable (IR 11.231). The Secretaries of State, after considering all the evidence and the Inspector's conclusion at IR 11.244, share her view and agree with the reasoning and findings, that the loss of 9 ha of ancient woodland is an enormous loss of irreplaceable habitat (IR 11.244). However, having regard to paragraph 118 of the Framework, they are satisfied that the need for and benefits of the Published Scheme clearly outweigh that loss. They agree with the Inspector that best efforts are being made to mitigate for the loss as far as practically possible (IR 11.244)

## **Effect of Published Scheme on Green Belt**

24. The Secretaries of State note that a number of objectors were concerned that the Published Scheme would constitute inappropriate development and harm the visual amenity of the Green Belt. The Secretaries of State in considering this matter note the Inspectors comments and

considerations in IR 11.245 to IR 11.257 and the comments from the Highways Agency at IR10.47 to IR 10.49, IR 10.214 and IR 10.216. They note that the Inspector reports that there would be a not insignificant loss of openness, which by definition would harm Green Belt, and also that there would be some conflict with the third purpose of the Green Belt identified at paragraph 80 of the Framework, namely to assist in safeguarding the countryside from encroachment (IR 11.249). However, they agree with the Inspector's conclusion at IR 11.258 that the published scheme can be considered to be appropriate by virtue of already established Green Belt boundaries. In addition, the Secretaries of State agree with her views expressed at IR 11.248 that this is a local transport infrastructure scheme which has demonstrated a requirement for a Green Belt location and at IR 11.251 that the Scheme would have a minimal impact on the visual amenities of the Green Belt. The Secretaries of State note and agree that the pressing need for the published scheme would, in any event, have outweighed any harm to the Green Belt had they reached a different view on the appropriateness of the development.

### **Effect of Published Scheme on Business Interests**

25. The Secretaries of State note that Hadlow Estates initially identified seven principal grounds of objection to the published scheme but did not pursue two of these at the Inquiry. The Secretaries of State in considering this matter note the Inspector's comments in IR 11.176 to IR 11.194 and the comments from the Highways Agency at IR 10.58 to IR 10.78. The Secretaries of State in considering these comments have decided, for the reasons the Inspector has given, to agree with the Inspector's overall conclusion at IR 11.195 that none of Hadlow Estate's objections give rise to reason not to proceed with the published scheme.

26. The Secretaries of State note that Mr R S Bowie and John Tyler Farms highlighted in IR 6.95 to IR 6.98, IR 6.100 and IR 6.107 to IR 6.109 that the published scheme and consequential loss of land would have a terminal impact on the viability of a number of their diversification enterprises. The Secretaries of State when considering this matter note the Inspector's comments in IR 11.196 to IR 11.198 and the response to the matter from the Highways Agency at IR 10.98 to IR 10.106, and for the reasons given, agree with the Inspector's conclusion at IR 11.199 that there is no hard evidence that the farm would become unviable and also note at IR 11.200 that Modification 5, set out in paragraph 31 below, will remove the requirement for plots 1/23a and 1/23b to be part of the CPO.

### **Alternative Routes**

27. The Secretaries of State note that there were three alternative routes proposed, two of which were pursued at the Inquiry – Alternatives 1 and 2. The Highways Agency response is at IR 10.50 to IR 10.54, IR 10.171 to IR 10.176 and IR 10.202 to IR 10.210.

28. The Secretaries of State note that each of the two alternative schemes was considered by the Inspector who reached conclusions on each of them in IR 11.265 to IR 11.274. The Inspector reached a conclusion in IR 11.267 that Alternative 1 would require a significantly greater area of land, the landscape impact would be greater, 4.6 ha more Ancient Woodland would be taken, outturn costs would be considerably higher and the Benefit Cost Ratio would be lower than the Published Scheme. The Secretaries of State also note that the Inspector in IR 11.270 rejected the proposal by Mr and Mrs Lamb for a two lane Alternative 1 route concluding that any proposed benefits were not substantiated. The Inspector reached a conclusion in IR 11.271 to 11.273 that Alternative 2 would result in a serious safety hazard and could be a source of confusion at night for motorists travelling south on the A21.

29. The Secretaries of State, after considering all the evidence, accept the Inspector's overall conclusion at IR 11.274, and agree with her reasoning and findings, that none of the evidence put forward by objectors makes a persuasive case for any of the alternative routes identified by the Inspector to be investigated further and they are satisfied that the alternative routes were properly considered.

### **The Historic Environment and the Listed Building Consent Applications**

30. The Secretaries of State have carefully considered the Inspector's comments at IR 11.206 to IR 11.226, IR 11.343 to IR 11.344 and IR 12.5 to IR 12.6. They note that a number of objectors were concerned that the published scheme would result in the demolition of listed and residential properties. The Secretaries of State when considering these concerns have decided, for the reasons the Inspector has given at IR 11.206 to IR 11.219, to agree with the Inspector's conclusion that the substantial public benefits associated with the Published Scheme could not be delivered without the demolition of the Grade II Listed Buildings (IR 11.343). They agree that the Published Scheme presents exceptional circumstances in which the loss of the listed buildings is preferable to the alternatives, and share her view that there is no conflict with Framework paragraphs 132 and 133 (IR 11.215). In overall conclusion on the issue the Secretaries of State agree with the Inspector at IR 11.343 that the LB consents for demolition should be granted subject to the conditions relevant to each application identified in Appendix 7 to the Inspector's report.

### **Modifications and Corrections**

31. The Secretaries of State note the Inspector's conclusions in IR 11.321 to IR 11.322, IR 11.324 to IR 11.328 and IR 11.329 to IR 11.340 on the modifications and corrections proposed by the Highways Agency to the published draft orders described in Inquiry document numbers HA/69, Appendix A in HA/69, HA 39/3 Rev 1, HA 73 Rev1, HA 70 Rev1 and HA 35/3. They note that the corrections and modifications will address drafting errors or add clarity and ensure consistency between the Orders, the Schedule and the

plan. They also note that Modification 7 will clarify the land to be acquired from Mr and Mrs Lamb, Modification 6 deals with the private means of access for Mr R S Bowie and John Tyler Farms and Modification 5 will delete flood compensation areas plots 1/23a and 1/23b. The Secretaries of State therefore accept the Inspector's overall conclusions in IR 11.322, IR 11.328 and IR 11.341 and agree, for the reasons she gives in IR 11.321 to IR 11.322, IR 11.328 and IR 11.328 to IR 11.340 that they are justified and should be made.

32. However, since the close of the Inquiry in July 2013, a small number of minor modifications are proposed to the published scheme. The modifications are summarised briefly below:

#### Changes to the CPO

There is a modification to the description of the 16 plots of land in the schedule to the CPO. The modification removes the text referring to the right over the land in connection with proposed landscape mitigation planting and maintenance, leaving only the description of the land.

#### Changes to the SRO

In the made SRO a change will be made to the alignment of the junction of the combined footpath and private means of access marked D and 3 and the combined bridleway and private means of access marked B and 2, as shown on the SRO Site Plan 1a. The change to the alignment will avoid plots of land for which one owner has stated he is not content for the description to be modified in the schedule to the CPO.

33. The Secretaries of State note that there is landowners' written consent for all the changes that involve the acquisition of additional land and accept that the minor modifications mentioned in paragraph 32 above do not amount to a substantial change, and as they are regarded as necessary, they should be included in the Orders accordingly. For these reasons, the Secretaries of State have decided, as none of these modifications affect the substance of the Orders or have any practical impact on those affected by them, to confirm the CPO and the SRO referred to above subject to the modifications outlined in paragraph 32.

#### **Other Matters**

34. The Secretaries of State note the other matters raised by Mr and Mrs Lamb in IR6.41 to IR 6.54, Hadlow Estates in IR 6.69 to IR 6.92, Gilbert Estates (John Guthrie Settlement Trust) in IR6.152 to IR 6.153, Bourne Mill Residents at IR 6.37 and Mr and Mrs Carr at IR 6.226 where they have not been addressed above. In considering these matters, the Secretaries of State note that the Inspector considered them and concluded in IR 11.161 to IR 11.175, IR 11.277 to IR 11.286, IR 11.204 to IR 11.205, IR 11.275, IR 11.276 and IR 11.201 to IR 11.203 and, for the reasons she gives, they accept her conclusions on each of them.

## **The Secretaries of State Decision on the Draft Orders**

### **The TRO**

35. The Secretaries of State agree with the Inspector's overall conclusions on the TRO at IR 11.321 to IR 11.322. And, for the reasons she has given, together with those of the Secretaries of State above, accept her recommendation in IR 12.2 that the TRO be corrected as set out in Inquiry document HA/69 and that the order so corrected be made. The Secretaries of State are satisfied that this correction does not, in their opinion, make a substantial change to the draft TRO for the purposes of the provisions in paragraph 8(3) of Schedule 1 to the Highways Act 1980.

### **The DO**

36. The Secretaries of State agree with the Inspector's overall conclusions on the DO at IR 11.323, and for the reasons she has given, accept her recommendation in IR 12.1, that the DO should be made as drafted without modification.

### **The SRO**

37. The Secretaries of State agree with the Inspector's overall conclusions on the SRO at IR 11.324 to IR 11.328. And, for the reasons she has given, together with those of the Secretaries of State above, accept her recommendation in IR 12.3 that the SRO be corrected as set out in Appendix A in Inquiry document HA/69 and that the SRO be modified as set out in Inquiry documents HA 39/3 Rev and HA 73 Rev1 and that the order so corrected and modified be made. The Secretaries of State also accept the post Inquiry modifications outlined in paragraph 32 above. The Secretaries of State are satisfied that this correction and modifications do not, in their opinion, make a substantial change to the draft SRO for the purposes of the provisions in paragraph 8(3) of Schedule 1 to the Highways Act 1980.

### **The CPO**

38. The Secretaries of State agree with the Inspector's overall conclusions on the CPO at IR 11.329 to IR 11.341. And, for the reasons she has given, together with those of the Secretaries of State above, accept her recommendation in IR 12.4 that the CPO be corrected as set out in Appendix C in Inquiry document HA/69 and that the CPO be modified as set out in Inquiry documents HA 39/3 Rev, HA 70 Rev1, HA73 Rev 1 and HA 35/3 and that the order so corrected and modified be made. The Secretaries of State also accept the post Inquiry modifications outlined in paragraph 32 above. The Secretaries of State are satisfied that this correction and modifications do not, in their opinion, make a substantial change to the draft SRO for the purposes of the provisions in paragraph 8(3) of Schedule 1 to the Highways Act 1980.

### **The TRREO**

39. The Secretaries of State agree with the Inspector's overall conclusions on the TRREO at IR 11.342, and for the reasons she has given, accept her recommendation in IR 12.1, that the TRREO should be made as drafted without modification.

### **The SRREO**

40. The Secretaries of State agree with the Inspector's overall conclusions on the SRREO at IR 11.342, and for the reasons she has given, accept her recommendation in IR 12.1, that the DO should be made as drafted without modification.

### **The Slip RREO**

41. The Secretaries of State agree with the Inspector's overall conclusions on the Slip RREO at IR 11.342, and for the reasons she has given, accept her recommendation in IR 12.1, that the DO should be made as drafted without modification.

### **The DREO**

42. The Secretaries of State agree with the Inspector's overall conclusions on the DREO at IR 11.342, and for the reasons she has given, accept her recommendation in IR 12.1, that the DO should be made as drafted without modification.

### **The Secretaries of State decision on the Listed Building Consent Applications**

43. For the reasons given above the Secretaries of State agree with the Inspector's recommendation. They hereby:

**APP/M2270/V/10/2126410:** Grant Listed Building Consent for the demolition of Burgess Hill Farmhouse and Barn at Burgess Hill Farm, Pembury Road, Capel, Tonbridge, Kent in accordance with application reference TW/09/03911/LBCDEM received by the Council on 11 December 2009, subject to the conditions set out at Annex A.

**APP/M2270/V/10/2127645:** Grant Listed Building Consent for the demolition of three curtilage listed structures: Oast House, Garages (also known as a storage building) and stables (also known as a Byre) within the Burgess Hill Farm complex at Burgess Hill Farm, Pembury Road, Capel, Tonbridge, Kent) in accordance with application reference TW/10/01219/LBCDEM received by the Council on 9 April 2010, subject to the clarification identified at paragraph 12 above and to the conditions set out at Annex B.

44. An applicant for any consent, agreement or approval required by a condition of these permissions has a statutory right of appeal to the SoSCLG if consent, agreement or approval is refused or granted conditionally or if the local planning authority fails to give notice of its decision within the prescribed period.

45. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than that required under section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **ORDERS AND SCHEME TO BE MADE**

46. In the light of the decision taken above, the Secretary of State for Transport will shortly make the published Orders listed in paragraph 1 subject to the corrections and modifications, as recommended by the Inspector and outlined in paragraph 31 above and the minor modifications proposed since the close of the Inquiry outlined in paragraph 32.

47. Public notice will be given when the Orders referred to in this letter are made. Any person who wishes to question their validity, or any particular provision contained in them, on the grounds that the Secretary of State for Transport has exceeded his powers, or has not complied with the relevant statutory requirements may, under the provisions of Schedule 2 to the Highways Act 1980 and section 23 of the Acquisition of Land Act 1981, do so by application to the High Court. Such application must be made within six weeks of publication of notice that the Orders have been made.

## **COMPENSATION**

48. After the CPO has been made, the qualifying persons, in relation to the land included in the made Order, will be approached about the sum of compensation payable to them in respect of their interest in the land. If the sum cannot be agreed with the valuer instructed by the Highways Agency, on behalf of the Secretary of State for Transport the matter may be referred for determination to the Lands Tribunal under the Lands Tribunals Act 1949 and the Land Compensation Acts 1961 and 1973, as amended by the Planning and Compulsory Purchase Act 2004 and the Localism Act 2011.

## **AVAILABILITY OF THE INSPECTOR'S REPORT**

49. A copy of this letter and the Inspector's report has been sent to all statutory objectors, Tunbridge Wells Borough Council and to any other person who, having appeared at the Inquiry, has asked to be notified of the decision of the Secretaries of State. Any person who is entitled to be supplied with a copy of the Inspector's report may apply to the Secretary of State for Transport within six weeks of receipt of this letter, to inspect any document appended to the report. Any such application should be made to David Tate (telephone number 0207 944 2797 or e-mail David.tate@dft.gsi.gov.uk) at the Department for Transport. Applicants should indicate the date and time (within

normal office hours) when they propose to make the inspection. At least three days' notice should be given, if possible.

**Right to challenge the decision of the Secretary of State for Communities and Local Government on the applications for Listed Building Consent**

50. A separate note is attached setting out the circumstances in which the validity of the Secretary of State for Communities and Local Government's decision in relation to the LB consent applications may be challenged by making an application to the High Court.

Yours faithfully



Jon Griffiths  
On behalf of the Secretary of State for Transport



James Henderson  
On behalf of the Secretary of State for Communities and Local Government

## **Annex A – conditions for APP/2270/V/10/2126410**

### **Condition A:**

As part of the demolition process further analysis and recording of the complex will be undertaken. The proposed methodology for this work will be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the works. This analysis and recording shall then be carried out in accordance with that methodology and shall include:

- Further desk-top study and archival research (including review of existing material);
- Further assessment of phasing and dating of different components, including dendrochronological analysis and intrusive investigations, where appropriate;
- The demolition of farmhouse, garages and oast house will be accompanied by a structural watching brief to record key building features as they are revealed; and
- The results of these studies/investigations will be combined with the findings of the existing historic building investigation of the farm complex, in a comprehensive historic building investigation report. Copies of the report will be supplied to the Local Planning Authority, the Kent Historic Environment Record and National Monuments Record.
- A Farmstead Characterisation Study.

### **Condition B1:**

Prior to demolition, the methodology for the demolition, storage, re-location and re-erection of the Barn shall be submitted to and agreed in writing by the Local Planning Authority. The demolition and storage will thereafter be undertaken in accordance with the agreed methodology.

### **Condition B2:**

If an alternative site for the Barn has not been found within 5 (five) years of the date of its demolition, the requirement for the re-erection of the Barn shall be deemed to have been discharged if the Local Planning Authority is satisfied that best endeavours have been used to find an alternative site.

### **Condition C**

The demolition hereby consented shall not be commenced before a contract has been signed for the commencement of the dualling of the A21 between Tonbridge and Pembury and work to implement dualling has commenced.

## **Annex B - conditions for APP/2270/N/10/2127645**

### **Condition A**

As part of the demolition process further analysis and recording of the complex will be undertaken. The proposed methodology for this work will be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the works. This analysis and recording shall then be carried out in accordance with that methodology and shall include:

- Further desk-top study and archival research (including review of existing material);
- Further assessment of phasing and dating of different components, including dendrochronological analysis and intrusive investigations, where appropriate;
- The demolition of farmhouse, garages and oast house will be accompanied by a structural watching brief to record key building features as they are revealed; and
- The results of these studies/investigations will be combined with the findings of the existing historic building investigation of the farm complex, in a comprehensive historic building investigation report. Copies of the report will be supplied to the Local Planning Authority, the Kent Historic Environment Record and National Monuments Record.
- A Farmstead Characterisation Study.

### **Condition B**

The demolition hereby consented shall not be commenced before a contract has been signed for the commencement of the dualling of the A21 between Tonbridge and Pembury and work to implement dualling has commenced.