

IN THE MATTER OF:

THE PROPOSED CAMBRIDGESHIRE COUNTY COUNCIL
CAMBOURNE TO CAMBRIDGE ORDER

APPLICANT'S SUBMISSIONS ON
ADVERTISEMENT OF THE INQUIRY

I. INTRODUCTION

1. These submissions are made further to the email on 16 September 2025 at 15:36 from Rachel Dominey, Senior Planning Officer at the Transport Infrastructure Planning Unit ("**TIPU**") within the Department for Transport, to the solicitors for Cambridgeshire County Council ("**the Applicant**").
2. In summary, the Applicant submits that:
 - 2.1. TIPU has prematurely advised the appointed Inspectors that the inquiry into the above order should be postponed.
 - 2.2. TIPU should consider (afresh, if necessary) whether to make a direction pursuant to rule 13(6) of the Transport and Works (Inquiries Procedure) Rules 2004 ("**the 2004 Rules**").
 - 2.3. TIPU should issue a direction pursuant to rule 13(6) of the 2004 Rules directing that the requirements in rule 16(3)(b) may be dispensed with in this case.
 - 2.4. If TIPU decline to make such a direction, TIPU should advise the appointed Inspectors that it is for them to decide whether or not to proceed with the inquiry in the present circumstances.
 - 2.5. If, alternatively, TIPU are to either advise the Inspector's on the process to be followed or to themselves determine whether the

inquiry should be adjourned, TIPU should advise or determine that the inquiry should proceed for the reasons set out below.

II. BACKGROUND

3. Rule 13(6) of the 2004 Rules provides:

‘Unless the Secretary of State otherwise directs, and subject to paragraph (7), the applicant shall not later than 2 weeks before the date fixed for the commencement of an inquiry–

- (a) post a notice of the inquiry in a conspicuous place or (in the case of an application for an order making provision for land based linear works more than 5 kilometres in length) at intervals of not more than 5 kilometres on, or as close as reasonably practicable to, the land to which the powers sought in the application relate;
- (b) post a notice of the inquiry in one or more places where public notices are usually posted in the area in which the proposals contained in the application relate;
- (c) publish a notice of the inquiry by local advertisement in the area in which the proposals contained in the application are to have effect.

4. In respect of these requirements:

- 4.1. The Applicant has complied with rule 13(6)(a) in full by posting the required notices along the route of the proposed busway.
- 4.2. The Applicant did not comply with rule 13(6)(b) because, although two notices were published (one on the notice board at the offices of South Cambridgeshire District Council and the other on the notice board at the offices of Cambridge City Council, the relevant local planning authorities), those notices were not posted at the required

time. The notices were published today, 16 September 2025, not two weeks earlier as required.

- 4.3. The Applicant has complied with rule 13(6)(c) in full by posting a local advertisement on 1 September 2025 in The Cambridge News.
5. In addition, although not required by the 2004 Rules, the Applicant has also publicised the inquiry dates by:
 - 5.1. Publishing the date of the inquiry on the Applicant's website on 15 April 2025 and providing a link to the inquiry website with details of the location.
 - 5.2. Sending an email on 15 May 2025 to all parties who had expressed an interest in the scheme giving them notice of the date of the inquiry together with a link to the inquiry website with details of the location. A reminder in materially the same terms was sent on 11 September 2025
 - 5.3. Sending a press release on 15 May 2025 to local media giving the date of the inquiry together with how to find out further details, including the location, of the inquiry.
 - 5.4. Publicising the inquiry on social media.

III. THE LEGAL FRAMEWORK

Power of the Secretary of State to issue a direction pursuant to rule 13(6) of the 2004 Rules

6. There is a power in rule 13(6) of the 2004 Rules – see the opening words '*unless the Secretary of State otherwise directs*' – for the Secretary of State to alter or waive the publicity requirements in that rule. This is a broad discretionary power.
7. As a matter of basic public law, when the Secretary of State is requested to make such a direction there is an obligation on the Secretary of State to

consider and determine that request, and to give reasons for that determination.

Approach to a failure to comply with a statutory procedural requirement

8. The approach to a failure to comply with a statutory procedural requirement was summarised in *A1 Properties (Sunderland) Ltd v Tudor Studios* [2024] 3 WLR 601 at [61] per Lords Briggs and Sales JJSC (with whom the other members of the court agreed):

“The point of adoption of the revised analytical framework in *Soneji* was to move away from a rigid category-based approach to evaluating the consequences of a failure to comply with a statutory procedural requirement and to focus instead on (a) the purpose served by the requirement as assessed in light of a detailed analysis of the particular statute and (b) the specific facts of the case, having regard to whether any (and what) prejudice might be caused or whether any injustice might arise if the validity of the statutory process is armed notwithstanding the breach of the procedural requirement.”

9. From this, the following principles emerge:
 - 9.1. A failure to comply with a procedural requirement does not automatically invalidate a step taken.
 - 9.2. To determine the consequences of a procedural failure, an evaluation of the following factors must be undertaken:
 - 9.2.1. The purpose served by the requirement.
 - 9.2.2. The specific facts of the case having regard to any and what prejudice might or has been caused.
 - 9.2.3. Whether any injustice might arise.

IV. SUBMISSIONS

Submission 1 – Premature advice by TIPU

10. The Applicant submits that TIPU has prematurely advised the appointed Inspectors that the inquiry into the above order should be postponed.
11. TIPU issued this advice (1) without considering the submissions made at the inquiry on this issue to the appointed inspectors and (2) without inviting submissions from the Applicant.
12. This was obviously procedurally unfair and inappropriate. As a matter of basic fairness, TIPU should have considered the submissions made by the Applicant at the inquiry or, alternatively, invited submissions from the Applicant.
13. This can be remedied now by going on to consider the submissions below.

Submission 2 – TIPU should consider whether to make a direction pursuant to rule 13(6) of the 2004 Rules

Submission 3 – TIPU should issue a direction pursuant to rule 13(6) of the 2004 Rules

14. These submissions are taken together.
15. As set out above, where – as here – a party makes a request to TIPU to make a direction under rule 13(6) of the 2004 Rules, TIPU should consider and determine that request.
16. In this case the Applicant requests that the Secretary of State directs that the Applicant does not need to comply with rule 13(6)(b) of the 2004 Rules.
17. The Applicant submits that this direction should be made for the following reasons.
18. First, the requirement in rule 13(6)(b) of the 2004 Rules is of little practical value in the modern world given modern means of communication. In this particular case the main means of communication to interested and third parties has been through a dedicated application website and

through social media. This has been demonstrably successful given the effective public participation to date. In addition, compliance with rules 13(6)(a) will have ensured that any local residents had notification; and compliance with rule 13(6)(c) will have ensured that any residents in a wider area and/or those without access to the internet will also have had notice.

19. The important context is that under the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 (as they apply to planning appeals) provide that the Secretary of State may require the local planning authority to take one or more of three steps (under rule 10 of the 2000 Rules) none of which is equivalent to rule 13(6)(b) of the 2004 Rules.
20. Given these matters, in particular the specific additional online advertising that the Applicant has undertaken, the Secretary of State can be satisfied that the inquiry has been widely publicised.
21. Secondly, the Secretary of State should consider the consequences of not making such a direction. In this case, that means that the Applicant would have breached the 2004 Rules with the possible consequence (subject to the submissions below) that the inquiry (which opened today) may need to be adjourned for at least a two week period (if not longer), causing considerable delay¹ to the application process and inconvenience and expense to all parties (including local resident groups) who have long prepared to appear.
22. Thirdly, no other part at the inquiry has objected to proceeding with the inquiry.
23. For these reasons, the Applicant submits that the Secretary of State should direct that the requirement to comply with rule 13(6)(b) of the 2004 Rules should be dispensed with in this case.

¹ In reality, the delay is likely to be extensive given the difficulties with booking a suitable venue in/around the Festive period.

Submission 4 – TIPU should advise the appointed Inspectors that it is a matter for them to decide

24. If TIPU decline to make such a direction, TIPU should advise the appointed Inspectors that it is for them to decide whether or not to proceed with the inquiry in the present circumstances because the appointed Inspectors:
 - 24.1. Have a full grasp of the detail of the case, including the written evidence and the competing position of the participating parties;
 - 24.2. Have heard submission on this (and had the opportunity to ask the parties questions) on this issue; and
 - 24.3. As a result are best placed to determine whether or not to proceed, in particular on the critical issue of prejudice and injustice (as addressed below).

Submission 5 – TIPU should advise or determine that the inquiry should proceed

25. If, alternatively, TIPU are to either advise the Inspector's on the process to be followed or to determine whether the inquiry should be adjourned, TIPU should advise or determine that the inquiry should proceed for the reasons set out below.
26. Applying the legal principles set out above, the Applicant makes the following submissions.
27. **Purpose.** First, the purpose of rule 13(6)(b) is to give notice of the inquiry to persons who are not active participants (given such active participants will otherwise have been aware of the inquiry through the preparation of their evidence etc the required four weeks before the inquiry commences).
28. **Prejudice.** Secondly, the potential prejudice here is that a non-active participant may not be alert to the inquiry starting. However, that prejudice can be wholly avoided in this case because the Applicant has today published notices. Therefore, given the inquiry will last well beyond

two weeks, any non-active participant who sees the notice today (or in the next two weeks) can attend the inquiry before it closes and make any representations (at the Inspectors' discretion) which they wish to make. In addition, as the inquiry has been livestreamed (and the recording is available on YouTube) any person who had not been able to attend can watch the recording.

29. **Injustice.** Thirdly, in circumstances where the potential prejudice can be wholly avoided (as explained in the preceding paragraph), no injustice can or will arise.
30. **Fairness.** Fourthly, a non-active participant who saw the notice later than otherwise would be the case and decided to attend the inquiry would not only have the opportunity to be heard (as explained above) but would be in a better position than a similar person interested in an inquiry into an appeal pursuant to section 78 of the Town and Country Planning Act 1990 who would have received no notice.
31. For these reasons, if TIPU are to either advise the Inspectors on the process to be followed or to determine whether the inquiry should be adjourned, TIPU should advise or determine that the inquiry should proceed for the reasons set out above.

V. CONCLUSION

32. For the reasons above, the Applicant submits that:
 - 32.1. TIPU has prematurely advised the appointed Inspectors that the inquiry into the above order should be postponed.
 - 32.2. TIPU should consider (afresh, if necessary) whether to make a direction pursuant to rule 13(6) of the 2004 Rules.
 - 32.3. TIPU should issue a direction pursuant to rule 13(6) of the 2004 Rules directing that the requirements in rule 16(3)(b) may be dispensed with in this case.

- 32.4. If TIPU decline to make such a direction, TIPU should advise the appointed Inspectors that it is for them to decide whether or not to proceed with the inquiry in the present circumstances.
- 32.5. If, alternatively, TIPU are to either advise the Inspector's on the process to be followed or to determine whether the inquiry should be adjourned, TIPU should advise or determine that the inquiry should proceed.
33. If the Secretary of State has any questions or requires any further information on the Applicant's request or the above submissions, the Secretary of State and/or TIPU should contact the Applicant's solicitors.

**NEIL CAMERON K.C.
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16th September 2025