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Our Ref:

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BY EMAIL & POST

Dear Mr Gully

### **SECURITY OF FUNDING FOR COMPULSORY ACQUISITION**

Thank you for your letter of 25 September. I acknowledge that the issue of security of funding when an applicant seeks compulsory acquisition powers in a development consent order is an important matter for applicants. To date only a small number of such applications have been or are being examined under the Planning Act 2008 (the 2008 Act), and best practice under this regime is inevitably still developing.

The nature and timing of the questions put to applicants on this as on other matters is for the appointed Examining Authority to determine. In considering the issue of financial security for compulsory acquisition compensation, Examining Authorities will have regard to the provisions of the 2008 Act, the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, and guidance issued under the 2008 Act. In addition, Examining Authorities will have regard to the provisions of the Human Rights Act 1998.

There are likely to be relevant differences in each case, both with regard to the prospective nature and quantum of compulsory acquisition compensation and with regard to the legal identity and company structure of the applicant and the manner in which it proposes to meet its compensation obligations. It follows that each case has to be considered on its own merits, and the approach taken by Examining Authorities is likely to differ from one case to another.

However in all cases what the Examining Authority will seek to ensure is that when considering a Funding Statement and any relevant evidence submitted during the examination it is satisfied that, having regard to relevant legislation and guidance and the evidence before it, adequate funds will be available to meet compulsory acquisition compensation if compulsory acquisition powers are granted and exercised.



It will be for the Secretary of State, in considering the recommendation of the Examining Authority, the Funding Statement and any relevant evidence submitted during the examination in each case, to form his own view of the financial security put forward by the applicant. While the Examining Authority will examine the matter carefully during the examination, and report accordingly in order to assist the Secretary of State, it will be a matter for the Secretary of State to determine whether it is necessary to request further representations from interested parties.

Yours sincerely



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**IAN GAMBLES**

Director of National Infrastructure

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.