

The Planning Inspectorate
Temple Quay House (2 The Square) Temple
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Our ref: KT/2016/121628/04-L01

Date: 25 May 2017

Dear Sir/Madam

**DEADLINE 8 SUBMISSION: APPLICATION FOR A DEVELOPMENT CONSENT ORDER
FOR CONSTRUCTION OF THE PROPOSED M20 JUNCTION 10A**

We would like to provide the following update to the Examining Authority.

Flood Risk Management

Since the hearings on the 17 and 18 May, we have had the opportunity to review the applicant's recent submissions:

- Flood Risk Assessment (FRA) Vol6.3 dated May 2017
- Flood Risk Assessment Summary Vol14.4 dated May 2017
- Depth and Hazard Difference Mapping Document Vol15.4 dated May 2017.

We are not in a position to fully sign off the flood modeling that has been submitted to support the updated FRA. We can confirm that all the model runs, with the exception of the 1 in 100 year plus 105% climate change allowance are fit for purpose. Up until now, the 105% model run – which is the relevant one for this development – has been unstable and not returned reliable results.

However, we understand from the Applicant that in the last few days they have successfully run the model with the 105% climate change allowance. This morning (25 May 2017), they sent us the latest modelling files with a supporting technical note. We welcome this, however we do not anticipate being able to review this information prior to close of the examination bearing in mind the very short timescales.

Although complete evidence on flood risk has not been provided in time for us to review it

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within the examination period, on this occasion we are confident that suitable mitigation of flood risk is possible on this site. We are therefore able to remove our objection, on the basis that the following requirement is included within the DCO:

Requirement:

The development shall not be commenced until such time as a detailed flood compensatory storage scheme is submitted to, and approved in writing by the local planning authority. The scheme shall provide suitable flood storage for any flood waters that would be displaced by this development in the 1 in 100 year plus 105% climate change allowance event. The scheme shall be fully implemented as approved and subsequently maintained.

The Applicant will need to carry out the 1 in 100 year plus 105% climate change allowance modelling at detailed design stage, in order to discharge this requirement. The information provided to us today may be useful in discharging this requirement. They will also need to submit information to determine whether the proposed flood storage scheme is necessary, and if so demonstrate that the scheme fully mitigates any adverse impact on flood risk. We note that in today's submission, the Applicant states that based on the successful 105% model run, flood storage compensation will not be necessary. Without having had time to review the model, we cannot confirm whether or not this is correct. We therefore strongly recommend that our proposed requirement is included in the DCO, and then we can review any evidence the Applicant puts forward at the detailed design stage.

We would urge the Applicant at the detailed design stage to allow us a reasonable amount of time to review modelling and any other supporting information. We would appreciate if the Applicant could share their proposed timescales for discharging this requirement, to allow us to programme our technical modelling resource accordingly.

Protective Provisions

We would like to set out our position on the protective provisions:

As raised at the DCO drafting hearing on 18 May 2017, the Environment Agency and the Applicant are in disagreement regarding three points in relation to the protective provisions. A copy of our preferred protective provisions showing the differences to the Applicant's preferred version in track changes is attached for ease of reference.

Firstly, we strongly disagree with the Applicant's wording of 2 (3) (b) which states "shall be deemed to have been given...". We argue it should read "shall be deemed to have been refused...". This is to reflect a change in legislation. Flood defence consents were formally issued under the Water Resources Act 1991 and were deemed to be given, however, we now have flood risk activity permits under Environmental Permitting (England & Wales) Regulations 2016 which are deemed to be refused. Our view is that the protective provisions need to align with the change in legislation and therefore we believe it should be deemed refusal.

This has an impact on 4 (1) (a). The Applicant would like the inclusions of "or deemed to have been approved or settled". However the Environment Agency is of the view they should not be any deemed approval for the reasons set out above.

Secondly, the Environment Agency would like the inclusion of the word 'partial' in 5 (5) (b) so it reads "any partial obstruction..." This would provide us with comfort that the Applicant

could only partially obstruct the drainage work which will still allow them to build a coffer dam as required. While there is an argument that the Applicant would not be able to partially or fully obstruct the drainage works without our prior approval, in reality we are highly unlikely to agree to anything more than a partial obstruction.

Thirdly, we would like the inclusion of our preferred indemnity. We have recently undertaken a review of our standard protective provisions and would argue for the adoption of the preferred indemnity to ensure consistency. Furthermore, we are aware that the Applicant has agreed to indemnities in the past.

Please do not hesitate to contact me if you require any further information

Yours faithfully

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