



3/18 Eagle Wing  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Customer Services: 0303 444 5000  
Direct Line: 0303 444 5069  
e-mail: [emre.williams@infrastructure.gsi.gov.uk](mailto:emre.williams@infrastructure.gsi.gov.uk)

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By Email

Our Ref: TR010011

Date: 12 June 2013

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Dear Mr Walker

**Application by Central Bedfordshire Council ("the developer") for the proposed Development Consent Order of the Woodside to the M1 Link Road.**

**Section 51 Advice following issue of acceptance decision**

I am writing in relation to your application submitted to the Planning Inspectorate on 14<sup>th</sup> May 2013 in relation to the above project. You will be aware that the Planning Inspectorate acting on behalf of the Secretary of State for Communities and Local Government issued his decision to accept the application to proceed to examination on the 11<sup>th</sup> June 2013.

Issues have come to light which we feel would be prudent to draw to your attention at this stage. This letter therefore contains advice which is issued under section 51 of the Planning Act 2008 (PA2008) in relation to the section 55 checklist issued on the 11<sup>th</sup> June to assist you in considering what action to take and when.

**Environmental Statement**

Some data appears to be missing from Chapter 9 of the Environmental Statement 'Nature Conservation'. It would appear that the Phase 1 habitat survey, bat surveys and badger surveys used as a study area was defined on the basis of a previous road layout and so have not fully covered the area within the DCO red line boundary. This implies that some of the area within the DCO boundary has not been subject to Phase 1 surveys or surveys for bats and badgers. The area appears to be that defined in the application document as the 'borrow pit' or Works 11. The area concerned is mainly covered by drawing ref J:\12-13\CDG12\_51 Woodside Link Road\Dep Plans Sheet 3.

Since the missing data only involves a small part of the overall Order Area and this is the only area of deficiency identified during the Acceptance assessment it is not deemed sufficient to conclude that the Environmental Statement does not provide data required to identify and assess main effects on the environment.

You will note from the section 55 checklist that the submitted report was considered by the Planning Inspectorate to comply with the requirements for acceptance. This however was based on an approach which was limited to whether procedural requirements were met based on the information on the face of the report, without any interpretation or judgement regarding the findings of the report which will be prepared following the Examination period. The Planning Inspectorate therefore considers on the evidence available in this case that it would be unreasonable to conclude at this stage that relevant environmental and habitats assessments could not be completed.

In the light of the points made above, you should be mindful of the strict timetable for the Planning Inspectorate's examination of applications, and of the significant risk of delay to the examination timetable if further environmental and/or habitats assessment work has to be carried out and completed during the examination. If any information to support the proposed application has been omitted in error, then the

Inspectorate would welcome its submission at commencement of the examination.

## Consultation

We would like to draw your attention to information described in the Consultation report. It is important that consistency is maintained within the application documents and we note in certain instances that incorrect information and/or dates were described. With regards to Section 42 Consultation, the Inspectorate noted in Section 3 of the Consultation Report that reference is made to Appendix 2 identifying all parties consulted under s42 of the PA2008. However paragraph 3.2.5 and 3.2.6 only makes reference to 7 Local Authorities consulted from an identified list of 13 (under s43 of the PA2008) as per Appendix 2.

In respect of s47 consultation, the Inspectorate noted that the Consultation Report Appendix 8 records that information on the SOCC was sent to local authorities for consultation but the letter did not provide a date for the deadline for responses.

The Inspectorate suggests that in terms of section 42 consultation that the applicant amends the Consultation Report to make it clear that the appropriate parties were consulted at the appropriate time and also in relation to section 47 consultation that it should be made clear how any consultation deadline was communicated to the parties consulted.

With reference to Appendix 1 of the Consultation report, which summarises the consultation timeline, the Inspectorate notes that this summary is not consistent with the information reflected in Appendix 5 and with the material requested under Regulation 5(5) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended). The dates and timescales are slightly different and we suggest you review the table below and provide clarity regarding these matters.

Starting Date	End Date	Type & Phase of Consultation	Notes
20 <sup>th</sup> September 2012	18 <sup>th</sup> October 2012	(i) Statement of Community Consultation letters sent to Host Authorities (ii) Preliminary Statement of Community Consultation issued	The letter sent to the Local Authorities does not specify a date for responses & therefore it is unclear whether a minimum of 28 days to respond was provided
20 <sup>th</sup> March 2013	16 <sup>th</sup> April 2013	Section 42 – Category 3 Claimant letters sent (secondary phase)	Following the request for original representations made under Reg. 5(5) of the 2009 APFP, it is clear that letters were sent on 19 <sup>th</sup> March 2013 with closing date of 17 <sup>th</sup> April 2013 i.e. 29 days
28 <sup>th</sup> March 2013	24 <sup>th</sup> April 2013	Section 42 – Category 1 Landowners & Category 2 Persons with Interests letters sent (secondary phase)	The relevant letter provided in Appendix 3 refers to a letter being sent on the 27 <sup>th</sup> March 2013 with closing date of the 25 <sup>th</sup> April 2013.
3 <sup>rd</sup> April 2013	30 <sup>th</sup> April 2013	Section 42 – Further Category 3 Claimant letters sent (secondary phase)	Following the request for original representations made under Reg. 5(5) of the 2009 APFP, it is clear that letters were sent on 02 <sup>nd</sup> April 2013 with closing date of 01 <sup>st</sup> May 2013 i.e. 29 days
5 <sup>th</sup> April 2013	2 <sup>nd</sup> May 2013	Section 42 – Further Category 2 Claimant letters sent (secondary phase)	Following the request for original representations made under Reg. 5(5) of the 2009 APFP, it is clear that letters were sent on 04 <sup>th</sup> April 2013 with closing date of 03 <sup>rd</sup> May 2013 i.e. 29 days
13 <sup>th</sup> April 2013	10 <sup>th</sup> May 2013	Section 42 – Further Category 3 Claimant letters sent (secondary phase)	Following the request for original representations made under Reg. 5(5) of the 2009 APFP, it is clear that letters were sent on 12 <sup>th</sup> April 2013 with closing date of 11 <sup>th</sup> May 2013 i.e. 29 days

## Book of Reference

We have identified a few minor inconsistencies between the Book of Reference (BoR) and Land Plans submitted, the majority of which relate to the BoR referring to 'overhead electricity pylons' while the Land Plans seem to identify either electrical lines and pylons or only electrical lines e.g. parcels 01/01, 01/04, 01/10 etc.

The BoR provides description of land parcels, however some parcels of lands do not mirror these descriptions e.g. land parcel 01/09 and 02/39 are both described as having a cycle path, however only land parcel 02/39 seems to include a cycle path.

Other inconsistencies such as describing location of land parcels are also incorrect e.g. land parcel 01/22 is described as being located South of Frogmore Road within the BoR, however it is evident from the relevant Land Plan that parcel 01/22 is located South of Sandringham Drive.

It should be noted that this is not an exhaustive list of inconsistencies identified by the Planning Inspectorate and we would advise that you seek your own legal advice on these matters, however in light of these points made above, it is suggested that the applicant review the BoR and relevant Land plans in order to address these minor inconsistencies.

### **Further information and clarification**

Whilst we cannot pre-judge the issues that the Examining authority will wish to examine, from the application documents it does seem to us that there are a number of matters on which you may wish to be prepared to provide further information and clarification during the course of the examination.

These matters concern the relationship between the Woodside Link project and the strategic highway network, including:

- (a) the impact of the presence or absence of the Woodside Link connection on
  - (i) the proposals for the de-trunking of the A5 through Dunstable, and
  - (ii) the assessed benefits of the A5-M1 Link with or without the de-trunking of the A5
- (b) the funding of the A5-M1 Link in terms of its provision and timescale, including the role of any funding to be provided by the promoters of the Woodside Link and/or HRN1 development

You may wish to consider the preparation of a Statement of Common Ground with the Highways Agency addressing these and any other pertinent matters, which the Examining Authority and interested parties would no doubt find helpful.

### **Conclusion**

You will be aware that you now have some influence over the timetable for the start of the examination by choosing when to carry out your notification and publicity obligations. This is because the examining authority cannot be appointed until after receipt of your certificate under section 58 and notice under section 59 confirming you have carried out the statutory notification.

The examining authority will make its initial assessment of principal issues within a 21 day period beginning with the day after the deadline you set in your section 56 notice for submission of relevant representations.

We trust you find this information helpful, however if you have any queries regarding this matter please do not hesitate to contact our office.

Kind Regards  
*Emré Williams*

Emré Williams  
Case Manager  
Major Applications and Plans

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.