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Dear Sirs,

PLANNING ACT 2008 APPLICATION FOR THE PROPOSED A19/A1058 COAST ROAD (JUNCTION IMPROVEMENT) DEVELOPMENT CONSENT ORDER

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to the report of the Examining Authority, Stephen Roscoe BEng MSc CEng MICE, who conducted an examination into the application made by the former Highways Agency, now Highways England, (“the applicant”) on 13 November 2014 for the A19/A1058 Coast Road (Junction improvement) Development Consent Order (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”).

2. The examination of the application began on 24 February 2015 and was completed on 30 July 2015. The examination was conducted on the basis of written evidence submitted to the Examining Authority and by hearings held in Newcastle upon Tyne on 14 and 15 April 2015.

3. The Order would grant development consent for improvements to the A19/A1058 Coast Road junction and would authorise the compulsory acquisition and use of land and rights over land for the purposes of the project. The proposed development (referred to in this letter as “the project”) would create a fully grade-separated junction by placing the A19 in an open cut underpass under the existing roundabout so as to provide a free-flowing link for through traffic on the A19. The aim of the project is to relieve congestion, improve safety and increase capacity at the junction.

4. Enclosed with this letter is a copy of the Examining Authority's report. The proposed development is described in section 2 of the report. The Examining Authority's findings are set out in sections 4 to 7 of the report, and his overall conclusions and recommendation are at section 8 of the report.

Summary of the Examining Authority's recommendation

5. The Examining Authority recommended that the Order be made, in the form set out in Appendix A to his report.

Summary of Secretary of State's decision

6. **The Secretary of State has decided under section 114 of the 2008 Act to make with modifications an Order granting development consent for the proposals in this application.** This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act.

Secretary of State's consideration

7. The Secretary of State's consideration of the Examining Authority's report is set out in the following paragraphs. All paragraph references, unless otherwise stated, are to the Examining Authority's report ("ER") and references to requirements are to those in Schedule 2 to the Order, as set out in Appendix A to the ER.

Legal and policy context

8. The Secretary of State has considered the changes made to the application summarised by the Examining Authority at ER 2.1.1-11. He agrees with the Examining Authority that, taken together, these have not changed the application to the point where it is a different application (ER 3.8.2). He is therefore satisfied that it is within the powers of section 114 of the 2008 Act for him to make the Order in the form recommended.

9. The Secretary of State notes that, following the designation of the National Policy Statement for National Networks ("NPSNN") on 14 January 2015, he is required by section 104(2)(a) of the 2008 Act to have regard to the NPSNN, and by section 104(3) to decide this application in accordance with the NPSNN (subject to certain exceptions which are not relevant in this case). In other respects, he agrees with the Examining Authority's assessment of the legislation and policy that are relevant and important matters to be taken into account in deciding this application and the weight to be given to relevant policies (ER 3.2-7). The Secretary of State confirms that he has had regard to the legislation and policy referred to by the Examining Authority, and to the Local Impact Report submitted by North Tyneside Council, in considering this application.

10. The Secretary of State agrees with the Examining Authority that the project is not "EIA development" for the purposes of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (ER 4.0.6-8). He is, nevertheless, satisfied that he has sufficient information for the purposes of his decision on this application, having regard to the applicant's Environmental Assessment Report and all other information submitted to the Examining Authority.

Air quality and emissions

11. The Secretary of State has considered the Examining Authority's assessment of the effects of the project on air quality and emissions at ER 4.1.1-11. He agrees with the Examining Authority that, on the basis of the evidence submitted, the project would be consistent with the aims, policies and protections in the NPSNN in relation to air quality, in particular at paragraphs 5.3-5.19; and that the project would not have any unacceptable effects in terms of air quality from construction or operation (ER 4.1.12-13).

Biodiversity and ecological considerations

12. The Secretary of State agrees with the Examining Authority that the potential for significant effects on European sites can be excluded and that an appropriate assessment is not required (ER4.2.3-4); that the project would be very unlikely to have any significant effects on other designated sites (ER 4.2.5-9); and that the project would be very unlikely to have any significant effects on protected species or other species of conservation importance in construction or operation (ER 4.2.10-15). He therefore agrees with the Examining Authority's overall conclusion that the project would accord with the NPSNN in terms of biodiversity and ecological considerations, particularly paragraphs 5.20-38; and that with mitigation the project would not have unacceptable biodiversity or ecological effects (ER 4.2.18).

Carbon emissions

13. The Secretary of State notes that the project would incorporate a number of measures to limit its carbon footprint (ER 4.3.1-5). He agrees with the Examining Authority that, taking those measures into account and in view of the nature and extent of the project, it would accord with NPSNN in this regard; and he is satisfied that the carbon footprint of the project would not be unnecessarily high (ER 4.3.6-8).

Economic impacts

14. The Secretary of State has considered the Examining Authority's assessment of the economic impacts of the project at ER 4.4.1-13 and notes the potential which the project would provide for transport economic efficiency benefits and for job safeguarding and creation. He agrees with the Examining Authority that the project would support economic activity and growth in accordance with paragraphs 2.1-27 of the NPSNN and with the goals of the Tyne and Wear Local Transport Plan 3. He agrees further that, on balance, the project would be likely to result in an indirect, substantial and positive effect on local economic receptors and that this is a key benefit of the project (ER 4.4.13-14).

Social impacts

15. The Secretary of State notes that, while there would be some disruption during construction of the project, in operation it would result in benefits for drivers in terms of improved safety and reduced congestion, and improved connectivity for non-motorised users. He agrees with the Examining Authority that, on balance, the project would accord with section 3 of NPSNN in relation to social impact and would be likely to result in a direct, minor and positive effect on highway users (ER 4.5.1-8).

Historic environment

16. The Secretary of State has considered the Examining Authority's assessment at ER 4.6.1-8 of the effect of the project on the historical environment, in particular, the loss or truncation of buried or surface archaeological remains in the area of the temporary construction compound, and the change to historical landscape character within the A19 corridor and the Tyne Tunnel Trading Estate. He agrees with the Examining Authority that the less than substantial harm to the significance of those assets would not outweigh the public benefits of the project and that the project would accord with paragraphs 5.120-142 of the NPSNN (ER 4.6.9-10).

Landscape and visual impacts

17. The Secretary of State notes that overall the adverse visual impacts of the project are predicted to be of no more than moderate significance during construction and of slight significance in operation, and would affect only the local area. The project is also predicted to have minimal landscape effects (ER 4.7.1-8). The Secretary of State agrees with the Examining Authority that the project accords with paragraphs 5.143-161 of the NPSNN and that it would not have any unacceptable effects in terms of landscape and visual impact (ER 4.7.9-10).

Noise and vibration

18. The Secretary of State has considered the Examining Authority's assessment of the noise and vibration impacts of the project at ER 4.8.1-19. He agrees with the Examining Authority that, taking into account the Noise and Vibration Management Plan (to be approved under requirement 3 as part of the Construction Environmental Management Plan ("CEMP")) and other mitigation measures, the impacts of the project during construction would be very limited apart from at a few locations. He agrees further with the Examining Authority that the predicted increases in levels of noise nuisance during operation would be an unavoidable consequence of reducing congestion on the local road network and would be in the context of a relatively low level of noise increase (ER 4.8.20-22).

19. The Secretary of State agrees with the Examining Authority that the benefits of the project would clearly outweigh its adverse noise impacts, both individually and cumulatively. He agrees also that the project would accord with paragraphs 5.186-199 of the NPSNN; and that it would avoid significant adverse impacts and would mitigate and minimise other adverse impacts on health and quality of life from noise and vibration (ER 4.8.21-25).

Surface water flood risk, surface water quality and groundwater

20. The Secretary of State agrees with the Examining Authority that, taking into account the mitigation measures to be approved under requirement 12, in terms of all forms of flooding the project would remain safe throughout its lifetime (ER 4.9.3-9). As regards surface water quality, he notes that, subject to implementation of the CEMP, the discharge of surface water from the project is predicted to be of neutral significance in terms of both water quality and aquatic ecology. As for the operational stage, the project would not have an adverse effect on the achievement of the environmental objectives established under the Water Framework Directive (ER 4.9.10-13). The impacts of the project on groundwater quality and resources are similarly predicted to be of neutral significance in both construction and operation (ER 4.9.14-18).

21. The Secretary of State agrees with the Examining Authority's overall conclusion on water issues, namely that the project would accord with paragraphs 5.90-115 of the NPSNN and with the UDP Policy E3 on minimising the impact of pollution on the environment (ER 4.9.19).

Waste

22. The Secretary of State agrees with the Examining Authority that, taking into account the applicant's proposals for managing hazardous and non-hazardous waste arising from construction of the project, the project would accord with paragraphs 5.39-45 of the NPSNN (ER 4.10).

Land instability

23. The Secretary of State agrees with the Examining Authority that the project would not have any unacceptable impact in terms of land instability and would accord with paragraphs 5.116-119 of the NPSNN, for the reasons given by the Examining Authority (ER 4.11).

Land use

24. The Secretary of State agrees with the Examining Authority that, on balance, the project would not have an unacceptable impact on land use and would accord with paragraphs 5.162-185 of the NPSNN, for the reasons given by the Examining Authority (ER 4.12).

Transport networks

25. Taking into account the conclusions of the applicant's Transport Assessment, the Secretary of State agrees with the Examining Authority that the project would not have an adverse impact on transport networks and would accord with paragraphs 5.201-217 of the NPSNN (ER 4.13).

Overall conclusion on the case for development consent

26. The Secretary of State has considered the Examining Authority's conclusions on the case for granting development for the project as set out in section 5 of the ER. He is satisfied that all the matters specified in section 104 of the 2008 Act to which he must have regard in deciding this application have been addressed. He agrees with the Examining Authority that the proposals in this application accord with the NPSNN, and that the project would have no adverse impacts which would outweigh the need for the project to be delivered and its other benefits. The Secretary of State is accordingly satisfied, like the Examining Authority, that there is a clear justification for granting development consent for the project (ER 5.0.4).

Compulsory acquisition matters

27. The Secretary of State has considered the compulsory acquisition powers sought by the applicant in the light of sections 120, 122, 123, 126, 135 and 138 of the 2008 Act, the Human Rights Act 1998 and relevant guidance. In doing so, he has taken into account the cases of the applicant and the affected persons as set out at ER 6.3.7-65.

28. The Secretary of State notes that no reasonably practicable alternatives to the project have been put forward. He agrees with the Examining Authority that the land subject to compulsory acquisition is required for the project and that each plot of land to be acquired has been identified with a clear purpose. He is satisfied that as a committed and funded element of the Road Investment Strategy there is unlikely to be any impediment to implementing the project in this regard (ER 6.4.9-14, 6.5.3).

29. As regards Crown land, the Secretary of State notes that the Crown Estate Commissioners have given the consents required by section 135 of the 2008 Act in relation to plots 3/11, 3/14 and 3/14a. In relation to other plots of Crown land required for the project (plots 3/3i, 3/3j, 3/3n and 3/3y), he notes that as they would not be subject to compulsory acquisition or use under the Order, no consent is required under section 135(1) of the 2008 Act. Although the applicant has not yet reached an agreement with the Crown Estate Commissioners for the acquisition of interests or rights in those plots, the Secretary of State is satisfied that, if such an agreement were not reached, this would not be an impediment to delivery of the project as there are fall-back options available (ER 6.4.15-23, 6.5.10).

30. The Secretary of State agrees with the Examining Authority that the temporary possession powers sought by the applicant are reasonable and justified and that the public benefit of the project would outweigh any private loss that would result (ER 6.4.24-26, 6.5.11). He is satisfied also that the proposals in the application would not infringe human rights, for the reasons given by the Examining Authority (ER 6.4.27-32, 6.5.12-13).

31. With regard to the objection by Northumberland Estates Limited and the Duke of Northumberland, the Secretary of State agrees with the Examining Authority that in relation to section 120(5)(c) of the 2008 Act the temporary possession of plot 2/4a would be expedient for the purposes of giving full effect to other provisions of the Order (ER 6.4.33-36, 6.5.6). He is, in any event, satisfied that the powers in the Order temporarily to possess land would be lawful by virtue of paragraph 2 of Schedule 5 to the 2008 Act. In other respects, the Secretary of State agrees with the Examining Authority that the temporary possession powers over plot 2/4a are justified for the reasons given in paragraph 30 above (ER 6.4.37-40).

32. With regard to the objections by occupiers of Vroom The Car Retail Park, the Secretary of State agrees with the Examining Authority that, in all cases, the land over which compulsory acquisition is sought is necessary to accommodate the project and that the Order includes satisfactory mitigation and compensation provisions (ER 6.4.41-48).

33. The Secretary of State agrees with the Examining Authority's overall conclusion that a compelling case in the public interest has been made out for each of the plots of land to be acquired compulsorily under the Order. He agrees with the Examining Authority that there is a clear need for the project to proceed and that there are no practicable alternatives to meet the objectives of the project; and that the public benefits of the project outweigh the loss to private interests or the restrictions imposed on those interests (ER 6.5.2). He is satisfied that in all other respects, the requirements referred to in paragraph 27 above have been satisfied (ER 6.5.4-13).

34. The Secretary of State accordingly agrees with the Examining Authority that the compulsory acquisition and temporary possession powers included in the Order as recommended by the Examining Authority should be granted. He has noted that there are some typographical errors in the book of reference in relation to plots 3/3i and 3/11a which should be corrected when the book of reference is submitted for certification as required by article 38 of the Order (ER 6.5.1, 6.5.15).

Draft Order issues

35. The Secretary of State has considered the Examining Authority's description of the development of the Order during the examination and commentary on the recommended form of the Order in section 7 of the ER. Subject to the qualifications detailed in the following

paragraphs, he agrees with the Examining Authority that the form of the Order set out in Appendix A to the ER is appropriate for the implementation of the project.

36. The Secretary of State considers that the provisions of article 37 (Crown rights) are not strictly necessary, in part because they overlap with section 135 of the 2008 Act. He nevertheless agrees with the Examining Authority that, in the particular circumstances of this case described at ER 7.1.40, and because the proposed agreement between the applicant and the Crown Estate Commissioners referred to at paragraph 29 above has not yet been concluded, it is expedient to include this additional protection for the Crown Estate Commissioners in this Order.

37. In relation to the mechanism for the approval of details under the requirements, the Secretary of State agrees with the Examining Authority for the reasons given at ER 7.3.1-12 that it is appropriate in the particular circumstances of this case to provide for the relevant planning authority to approve those matters, except in relation to requirement 10 (traffic management) (see ER 7.3.31-32). He notes that, at the time of the examination, the applicant was considering an alternative approval process for the requirements to take account of its different status compared with the former Highways Agency. However, the Secretary of State agrees that as no specific arrangements were put forward for consideration during the examination to address the Examining Authority's concerns about accountability, in this instance the discharge of requirements should fall to the relevant planning authority.

38. With regard to the inclusion of tailpieces in the requirements, the Secretary of State agrees with the Examining Authority that it is appropriate to allow for the variation of details previously approved by the relevant planning authority under the requirements (ER 7.3.18). However, given that this is provided for in requirement 13(2), he considers that the words "unless otherwise agreed in writing by the relevant planning authority" in requirements 8(2), 9(2) and 12(2) are unnecessary. Those words would also appear to allow the relevant planning authority to dispense with compliance with those requirements altogether. He has therefore decided to delete those words from requirements 8(2), 9(2) and 12(2).

39. The Secretary of State has made a number of other minor textual amendments to the Order set out in Appendix A to the ER in the interests of clarity, consistency and precision, and in order to conform to the current practice for drafting Statutory Instruments. He is satisfied that none of these changes individually or taken together materially alter the effect of the Order.

Secretary of State's conclusions and decision

40. For all the reasons given in this letter, the Secretary of State considers that there is a clear justification for authorising the improvements to the A19/A1058 Coast Road junction proposed by the applicant. He has therefore decided to accept the Examining Authority's recommendation at ER 8.0.6 and is today making the Order granting development consent and imposing the requirements as proposed by the Examining Authority, but subject to the modifications referred to at paragraphs 38 and 39 above. He confirms that, in reaching this decision, he has had regard to the NPSNN, the local impact report submitted by North Tyneside Council and to all other matters prescribed by section 104 of the 2008 Act.

Challenge to decision

41. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for decision

42. The Secretary of State's decision on this application is being publicised as required by section 116 of the 2008 Act.

Yours faithfully,

Martin Woods

ANNEX

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Order is published. Please also copy any claim that is made to the High Court to the address at the top of this letter.

The A19/A1058 Coast Road (Junction Improvement) Development Consent Order 2016 (as made) is being published on the Planning Inspectorate website at the following address:

<http://infrastructure.planninginspectorate.gov.uk/projects/north-east/a19a1058-coast-road-junction-improvement/>.

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).