

11 June 2015

Our Ref: JW/SJC120/10030443
Your Ref: TR010018

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Dear Sir

APPLICATION BY HIGHWAYS ENGLAND FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE A14 CAMBRIDGE TO HUNTINGDON IMPROVEMENT SCHEME

WRITTEN REPRESENTATION ON BEHALF OF ST JOHN'S COLLEGE, CAMBRIDGE – DEADLINE 2

St John's College, Cambridge, supports the need for improvements to the A14 between Cambridge and Huntingdon. This stretch of road is currently the source of frequent vehicle accidents and all the problems that these create. Due to the volume of traffic it is also the source of many delays and hold ups. It is, therefore, accepted that for the future expansion of the region and the continued development of Cambridge as a significant city with a global reputation, it is necessary to find a solution to the problems created by this road.

Whilst St John's College, Cambridge, supports the need for improvements to the A14 in this area, the impact of the proposal on land owned by them is such that they have no option other than to object to the proposed Development Consent Order. In accordance with the timetable for the examination of the application the following representations are being made to the Examining Authority.

1. The Development Consent Order

- 1.1 A Development Consent Order may only authorise compulsory acquisition if land is required for the development to which the Consent relates, or is required to facilitate the development. There must also be a compelling case in the public interest for the compulsory acquisition. These issues are addressed further below.
- 1.2 An applicant is legally obliged to carry out extensive consultations on their proposals prior to the submission of the Development Consent Order. Such consultation should provide sufficient information on the project for consultees to be able to recognise and understand the impact. Furthermore, applicants should set consultation deadlines which are realistic and proportionate to the proposed project. Finally, there is a duty on the applicant to take account of responses to any consultation.

There has been a distinct lack of consultation from Highways England, or their Consultants, prior to the submission of the Development Consent Order. Prior to any documentation being publically available, the agent acting for Highways England agent met with Savills, as Agents to St John's College, Cambridge. At this meeting only a general introduction to the scheme and the Development Consent Order process was provided. Despite concerns being raised,

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there was no further contact from either Highways England or their Agent until a further meeting was held in October 2014. At that meeting, numerous points of concern were raised Savills, but no written record of the meeting was provided and, indeed, there was no further communication from Highways England until the Development Consent Order had been submitted at the end of December 2014.

The reference to a “Consultation” suggests a two-way process, whereby affected parties can raise concerns which should then be taken into account by the applicant. There has been no two-way process in this instance with Highways England not responding in any way to concerns raised.

- 1.3 Following the submission of the Development Consent Order, Savills submitted objections to the scheme on behalf of St John’s College, Cambridge. Once again, there has been no response to these concerns.
- 1.4 The information provided by Highways England prior to, and post the submission of the Development Consent Order, has been extremely poor and, in some cases such as the Book of Reference, it has been inaccurate. The Government’s guidance note on Development Consent Orders makes it quite clear that applicants should provide sufficient information and realistic deadlines to allow consultees to recognise and understand the impacts of any project.
- 1.5 Not only have Highways England failed to adequately consult, but they have also acted unlawfully in relation to access on to third party land. Highways England sought consent from St John’s College, Cambridge, to enter on to land owned by them in order to carry out borehole surveys. The College would not grant such consent without further information being provided which had been requested. Highways England did serve notice on St John’s College permitting them access on to the land, but this was served once they had already entered on to the land and carried out the borehole surveys. Therefore, they entered the land without consent. Furthermore, the land in question is occupied by an Agricultural Tenant. Highways England had sought consent from the tenant as well as the landlord. The tenant had not granted consent prior to the works being undertaken.
- 1.6 Guidance for participants in any examination of applications for Development Consent Orders requires written statements to be supported by “*data methodology and assumptions used to support their assumptions*”. In many cases Highways England have failed to provide landowners with such data and methodology relating to points of concern and, therefore, it is not possible to respond with any such supporting information to challenge Highways England.
- 1.7 Initial representations on behalf of St John’s College, Cambridge, were submitted to the Planning Inspectorate on 6th March 2015. Highways England subsequently published their Response to Relevant Representations on 1st June 2015. Whilst Highways England have attempted to group representations by issue, many of the issues made in the original representation by St John’s College have not been referred to in the response from Highways England. This is further evidence of poor engagement with consultees and a failure to try and resolve concerns being raised.

2. Use of Compulsory Purchase Powers

- 2.1 There are no powers within the Planning Act 2008 by which a Development Consent Order may include powers of temporary use and possession of land. In table 7.1 of The Response to Relevant Representations, Highways England acknowledge that there is no express provision for including powers of temporary possession of land in a Development Consent Order. It goes on to suggest that it is relying on Section 120(3) of the Act, which states “*an order granting development consent may make provision relating to or to matters ancillary to,*

the development for which consent is required.” Highways England assert that taking temporary possession of land is in accordance with this provision. They go on to suggest that if they are wrong in their interpretation the use of the word “*includes*” means that the matters listed in Schedule 5 of the Act are not exhaustive, and can allow almost any right which the Authority feels appropriate. St John’s College, Cambridge, do not accept the legal arguments being put forward by Highways England and they will look to be legally represented at the Examination in order that this point can be examined in detail.

- 2.2 As stated above, there must be a compelling case in the public interest for the land to be acquired compulsorily.

Highways England have provided no evidence to demonstrate that they have sought to supply materials for the construction of the proposed highway, from local quarries and pits. In their Response to Representations, Highways England state that “*the quantity of materials required...is far in excess of that which can be provided from existing permitted local quarries*”. They go on to say that “*compared with extracting the equivalent quantities of materials from existing quarry sources locally or further afield, the use of local borrow pits is overall the better environmental option*”. These statements are being made with no supporting evidence to demonstrate that this is the case. Without such evidence there is no compelling case in the public interest for the land to be acquired compulsorily.

Land is also included within the Development Consent Order for the purposes of constructing a “non-motorised user (NMU) road”. It is understood that this road will allow for pedestrian and mounted (bicycle and horse) use. Highways England have provided no data or methodology to support the need for a separate road for non motorised users. Without such evidence there is no compelling case in the public interest for the land to be acquired compulsorily.

3. Borrow Pits

- 3.1 Highways England have provided no data or supporting evidence to confirm that any suitable material exists in the location of the proposed borrow pits and, if such material exists how much and what is required? Not only is such evidence not available for each borrow pit, but neither is it available globally across the entire scheme to assess the total material required. Without such data being available it is not possible to determine whether alternative sources of such material are available in the locality.

Highways England have said in their response to representations that they will provide information on the volume of cut and fill materials expected and the deficit required to be supplemented by extraction of materials from each of the borrow pits. Shortly prior to the date of Deadline 2, no such evidence has been provided.

In table 7.1 of the Highways England Response to Representations, it confirms that borrow pit 6 (principally sited on land owned by St John’s College, Cambridge) is a site for the extraction of gault clay. Such gault clay is “*expected to be suitable for constructing highway and mitigation embankments as well as for use as fill in restoration of borrow pits...*”. This suggests that, firstly, there is no evidence that such clay would be suitable for such purposes, but, furthermore, it confirms that such clay has been dug to help fill other borrow pits on the scheme which are being used to source minerals for the construction of the road. Not only does it defy logic to dig a second hole to provide material to fill in the first hole being dug, but we would strongly contest that this purpose would be “*for the development for which the development consent relates*” and, therefore, compulsory acquisition cannot be authorised.

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Within table 7.1 Highways England also state that “*the gault clay is **expected** to have better engineering properties than the Ampthill clay...*” and that “*the gault clay overlies the Woburn Sand formation which is a primary aquifer*”. Highways England also acknowledge that the current designs are based on the limited information they have available. This clearly demonstrates that there is no geological information available to support a borrow pit in this location.

Within table 15.1, in response to concerns raised by the Environment Agency that borrow pit 6 is located within a geologically sensitive area due to the underlying aquifer, they have said that the Environment Agency will be given design and monitoring information to address concerns regarding protection of the existing ground water resources. St John’s College, Cambridge, believe that the location of borrow pit 6 is such a sensitive location, it is entirely inappropriate.

The creation of a flood attenuation pond is shown on land owned by St John’s College, Cambridge. A permanent compulsory acquisition of land is not required for such use as the affected land is not required permanently but rather it is required for the period of construction of the proposed highway improvements. Therefore such areas should fall outside of the Development Consent Order.

No data or methodology has been provided by Highways England to support the need for the provision of such flood alleviation areas. In table 14.2 of their Response to Representations, Highways England state that “*once more detailed topographical information is available in detailed design stage it **may** be possible to refine the design of some of the storage areas. Balancing ponds have been designed to have sufficient volume to achieve attenuation criteria set by the Environment Agency*”. This suggests that Highways England simply allowed for flood attenuation ponds on a “worst case” scenario with no factual information to support such proposal.

4. Accommodation Works

Attempts have been made to understand the potential for accommodation works such as fencing provision, land drainage, minor design changes etc but Highways England have failed to engage with landowners in relation to such issues. However, in the Response to Representations Highways England state that “*it is committed to landowners to address their concerns and to configure the scheme to their liking through the detailed design process. Accommodation works and related commitments will therefore be agreed in statements of common ground where appropriate.*”

Affected landowners cannot simply take such issues in good faith, and hope that an agreement will be forthcoming. Such issues must be presented and agreed prior to the Development Consent Order being authorised.

5. Hearing

Savills, as Agents to St John’s College, Cambridge, will wish to make oral representations at the issue specific hearings on the draft Development Consent Order as well as the Compulsory Acquisition provisions.

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St John's College, Cambridge therefore believe that the Examining Authority should refuse to authorise the Development Consent Order, until the applicant has adequately addressed the issues raised above.

Yours sincerely

John Wootton FRICS FAAV
Director