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**Office of Economy, Transport and
Environment Services**
Executive Director, Graham Hughes

Transport and Infrastructure Policy & Funding

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Dear Sirs,

**A14 Cambridgeshire to Huntingdon Examination
Written Representation for Deadline 5**

This representation concerns matters raised at the Issue Specific Hearing on the DCO on 15 July 2015.

DCO Article 3

The Examining Authority at the hearing on 15 July 2015 requested the position of the County Council with respect to Article 3 of the Draft Development Consent Order (Ref REP4-021).

This Article provides for the dis-application of various legislative provisions, principally the Land Drainage Act 1991. The wording of the Article provides that the provisions do not apply to works for the purpose of "*....construction, maintenance, or operation of the authorised development*". It would appear that the dis-application therefore applies in perpetuity unless the DCO is revoked.

The County Council raised this matter with the Applicant on 5 March 2015, but did not receive a response.

The concerns of the County Council are as follows:



The authorised development includes considerable sections of road that will be local road, for which the County Council as highway authority will be responsible. The Article as drafted does not provide for cessation of the dis-application on completion of the authorised development. The County Council would consider it inappropriate for the Undertaker to continue to deal with the matter of consents under the Land Drainage Act in respect of local roads, and indeed, it would seem unlikely that the Undertaker would wish to do so. While Articles 8 and 9 provide for transfer of benefit, this would not make sense; transferring to the County Council a duty it would hold by statute, but for the DCO.

A proper construction of the DCO would provide for cessation or revocation of the dis-application of legislative provisions on completion, at least in respect of the local road elements.

The County Council would also question the need for the Undertaker to dis-apply legislative provisions in maintenance and operation of the authorised development. This does not appear to be a necessary part of the DCO, and would have the effect of a permanent change in legislative provisions. The purpose of a DCO is to authorise development, not to make permanent local changes to statutory provisions.

DCO Article 12(4)

This Article in the DCO (REP4-021) provides for the date of de-trunking to be decided by the undertaker without consultation with the County Council or obligation to bring the de-trunked road up to standard before de-trunking. In its written representation, the County Council requested a change to this Article to refer to agreement of the date of de-trunking and completion of the handover plan.

The County Council notes, and agrees with, the comment by Highways England in REP4-011 (4.7.23) that it is not appropriate to refer to a private legal agreement in a legislative instrument. However, Article 12 (4) should be amended to refer to de-trunking on a date to be agreed, and for it to be conditional on remedial works being completed. If this were not changed, then there would be a conflict between the DCO and the legal agreement between Highways England and the County Council. If asked to resolve this conflict, the arbitrator may be minded to give greater weight to the DCO. If there is agreement between the beneficiaries of Article 12 (4) that they will agree the date of de-trunking, and certain works must be completed before that can happen, the County Council does not see why the DCO cannot be amended accordingly.

Schedule 2, Requirement 3

This Requirement in the revised DCO (REP4-021) refers to the Code of Construction Practice.

The County Council notes that Highways England has stated (REP4-011 and at the Issue Specific Hearing) that this is a specified document in the DCO. In its written representation, the County Council referred to the lack of references to consultation and the differences between this Requirement and others. The County Council notes the response of Highways England in respect of the Code of Construction Practice, and intends to reach agreement with Highways England on

the matter. The County Council therefore reserves its position as set out in its written representation (REP3-006) until after publication of the Applicant's Revised DCO for Deadline 7.

Schedule 2, Requirement 11

This Requirement in the revised DCO (REP4-021) refers to the Borrow Pits Restoration Plan.

The County Council notes that this is a specified document in the DCO and will become "fixed" when the DCO is made. In its written representation (REP3-006), the County Council referred to the lack of consultation and the differences between this Requirement and others. The County Council remains of the opinion that a Requirement is needed to secure consultation on the detailed design and restoration of the Borrow Pits, given that restoration will be some years in the future, the current Borrow Pits Restoration Plan lacks detail, and in part is no more than aspirational.

Schedule 2, Requirement 12

This is a new Requirement in the revised DCO (REP4-021) published for Deadline 4.

This Requirement permits material changes in the noise mitigation proposed in the Environmental Statement, subject to it not giving rise to a new or materially worse environmental effect. The qualification is acknowledged, but the County Council notes that the Requirement does not provide for consultation with the relevant planning authority. A requirement for such consultation is included in other Requirements, such as landscaping. Given local concern over the matter of noise mitigation, the County Council would consider the lack of consultation over the details of noise mitigation to be an omission.

The County Council also draws the attention of the Examining Authority to the matter of independence of Highways England as adviser to the Secretary of State on discharge of Requirements. At the Issue Specific Hearing on 15 July 2015, Highways England set out that transparency in discharge would be provided by publication of both consultation and recommendation. The view of the County Council, in respect of all Requirements not just Requirement 12, is that transparency in discharging Requirements is provided by consulting with the relevant planning authorities, and reasonably taking account of that consultation in making recommendations for discharge. Without consultation, the independence of Highways England in respect of decisions of which it is the beneficiary may be at risk.

Establishment of PROW/PMA in the DCO

The County Council has referred to the matter of legal advice concerning the representation of PROW in the DCO and the establishment of widths. The matter of widths was also raised by Mr Buisson of the Local Access Forum at the Open Floor Hearing on 14 July 2015. Highways England has requested further

consultation with the County Council over the matter, as well as other matters referred to in the Written Representation (REP3-006) by the County Council.

As it is possible that Highways England and the County Council can reach agreement on these matters without burdening the Examining Authority, the County Council reserves its position until after publication of the Applicant's Revised DCO for Deadline 7.

Comments on Response by Highways England

Highways England has commented (REP4-011) on the written representation by the County Council (REP3-006). The County Council considers that Highways England has not understood the position of the County Council with respect to Bridleway 6 – Stukeleys (15.1.3 to 15.1.8 in REP3-006) and Footpath 3 link to RAF Brampton (15.1.10 to 15.1.12 in REP3-006). The County Council and Highways England are continuing discussion on these, and other matters, and progress with these discussions will be included in a revised Statement of Common Ground for Deadline 8.

Yours faithfully

AJ Munro

A14 Project Manager – Cambridgeshire County Council

