

A14
Cambridge to Huntingdon
improvement scheme
Development Consent Order Application

HE/A14/EX/91

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Response to ExA's Second Written Questions:

Principal Issue 14 Other Matters

August 2015

The Infrastructure Planning (Examination Procedure) Rules 2010

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14 Other Matters

Question 2.14.1

In the light of SCDC's comments about the extent of Statutory Nuisance could the applicant clarify their position as set out in the application.

Response

1. South Cambridgeshire District Council's (SCDC) response to written question 1.1.17 queries why statutory nuisance associated with construction dust is not included within article 39 of the *Draft Development Consent Order (DCO)* (Applicant reference 3.1, PINS reference APP-008).
2. Paragraphs 4.1.3 – 4.1.8 of the *Statement Relating to Statutory Nuisances* (Applicant reference 6.4, PINS reference APP-753), with reference to the qualitative assessment of the impacts of nuisance dust during construction contained within Chapter 8 of the *Environmental Statement* (Applicant reference 6.1, PINS reference APP-339), sets out that with the implementation of best practice mitigation measures, construction dust arising from the Scheme would not generate a nuisance and nor would there be any prejudicial effects to health under Section 79(1) (d) of the Environmental Protection Act 1990.
3. In its response to written question 1.1.17, SCDC raised concerns that the Planning Act 2008 appears to provide a general absolute defence to action in respect of statutory nuisance. Table 2.11 of Highways England's *Comments on Responses to ExA's First Written Questions* (Applicant reference HE/A14/EX/56, PINS reference REP4-018) identifies that local authorities have options available if the appointed contractor (or Highways England) is in breach of the terms of the DCO or Code of Construction Practice (CoCP) (which is itself secured by paragraph 4 of Part 1 of Schedule 2 to the *Draft DCO*) in regards to construction dust impacts. Should it consider there to be a breach, SCDC would be able to serve an Information Notice, raise a prosecution or obtain an injunction.

Question 2.14.2

**What consideration has been given to the use of the Chesterton railhead to deliver locally unobtainable aggregates? (CCC para 9.1.3 REP3-006)
Why can a strategy not be developed before a decision on the DCO?
(Ref: CCC WR para 9.1.3 REP3 -006).**

Response

4. Due consideration has been given to the potential use of Chesterton railway sidings during the construction phase of the A14 Improvement Scheme.
5. Chesterton railway sidings could provide a potential opportunity for delivering concrete, asphalt and dry aggregates¹ which could be used by the contractor for the construction of the A14 scheme where such material is not available locally. However any strategy to use them could only be developed after grant of the DCO (if the application is granted), at detailed design stage, for the reasons outlined below.
6. The detailed design phase alongside on-going negotiations with material suppliers/subcontractors would ensure reliable demand and supply information. This will not be available until after the DCO examination period and only once the demand and supply information was available would it be possible to then develop the construction materials strategy. Once it is established what materials required for the construction of the A14 scheme would be unavailable locally, any strategy for using Chesterton railway sidings for importing the remainder of the materials required for the construction of the A14 scheme would be finalised.
7. In addition any strategy that will involve the use of these sidings will need to take account of the following factors.
8. Use of the existing siding would incur some additional work prior to using them for sourcing materials for the A14 scheme. In order to make the use of the existing sidings, some rehabilitation work in the form of vegetation clearance and re-establishment of the existing sidings would be required. In addition to the rehabilitation works, some improvement works to the existing highway access would also be required to allow usage for the construction traffic. These additional works required to make these sidings suitable for delivering materials for the A14 scheme would be discussed with relevant local authorities and any necessary consents gained.

¹ It should be noted that borrow pits would still be needed for the earthworks.

9. Construction of a separate temporary access to the sidings would also likely be needed to enable direct access to and from the A14. Due to large number of construction movements envisaged during the transportation of materials from the railway sidings to the project site, construction of a separate direct access would be desirable to ensure construction movements through local roads in Cambridge are minimised. This would be subject to having the relevant consents and agreements in place with relevant local authorities.
10. Of the seven sidings in total at Chesterton, only two are currently in service. The main freight operator – 'Lafarge Aggregates' has concrete and asphalt batching plants adjacent to the premises. Any use of the current railway sidings would be discussed with Lafarge Aggregates by Highways England. Other potential considerations such as forming a temporary rail head along the railway line away from Chesterton sidings would also need to be explored to determine if the supply of materials for the construction of the A14 scheme utilising these sidings would be optimal for the Scheme.
11. Prior to finalising any strategy for using Chesterton railway sidings for the construction of the A14 scheme, further consultation with Network Rail would also be required to determine whether the identified vacant land capacity at Chesterton rail head could be utilised by the contractor, taking into account the planned Cambridge Science Park railway station that will form part of the site.

Question 2.14.3

The ES refers to different stages or parts of the construction process. Should there be a Requirement to ensure that works do not commence until a written scheme setting out the phasing of construction of each stage or part has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority? And that the works must be carried out in accordance with the approved scheme. Should each stage be defined by reference to Work Numbers together with a time limit for commencement of each stage?

Response

12. Highways England does not consider that a phasing requirement is appropriate for inclusion within the DCO. It considers that such a requirement would be overly restrictive in terms of the programme of construction, particularly in the context of this being prior to detailed design which inform construction timing and phasing, and could potentially adversely impact the delivery of the scheme on time. Flexibility is therefore required in this regard. It is also not considered to be a 'standard' requirement found in made DCOs to date. This should be considered separately from the references to 'phasing' in the *Environmental Statement (ES)* (Applicant reference 6.1, PINS reference APP-337) for the reasons given below.
13. The *ES* provides an envisaged construction scenario, including potential phasing, in order to allow the assessment and identification of likely significant effects. The *ES* made clear, as referred to above, that there was no certainty as to phasing due to the detailed design not having been undertaken at the time of assessment, which has direct effects on the phasing of construction. As such, the *ES* took a precautionary approach in this respect and assessed a reasonable 'worst case', which for most topics included the assumption that construction would take place concurrently across all of the scheme. Those assessments which did adopt estimated phasing (as set out in Appendix 3.2 of the *Environmental Statement Appendices*, Applicant reference 6.3, PINS reference APP-435) were the consideration of construction traffic impacts and socio-economic effects in respect of construction employment opportunities (on the basis the effects in respect of these would have otherwise been unrealistically overestimated from assuming that all work was happening at once) and ecology (as it would have been otherwise unrealistic in respect of habitat creation and seasonal mitigation requirements and effects).
14. For this reason, Highways England considers that no phasing requirement needs to be included in the DCO in order to ensure the 'envelope' of what was assessed in the *ES* is secured.

15. Highways England will continue to engage with local authorities during detailed design (after the DCO is made, should the application be granted) and pre-construction regarding the construction programming. The final construction programme would be in accordance with the CoCP (Applicant reference HE/A14/EX/64, PINS reference REP4-026). The CoCP sets out a series of objectives and measures to be applied throughout the construction period which will have the potential to impact on the programme in terms of management and operation of the works, environmental protection and limits to disturbance from construction activities (including stakeholder engagement).
16. There is also the requirement already contained in paragraph 9 of Schedule 2 to the DCO for Traffic Management Plans to be approved for each part of the development. These can be used to deal with the traffic implications of the final construction timing and phasing programme.

Question 2.14.4

Please provide an update on progress with each of the Statements of Common Ground (SoCG) submitted in response to Deadline 3. This to confirm which SoCGs are now finalised and which SoCG are still in discussion. It is the ExAs expectation that all SoCGs will be finalised by Deadline 8. If the applicant or other interested parties foresee difficulties in meeting this deadline, they are requested to advise the ExA accordingly of the additional steps that are being taken to secure agreement.

Response

17. Progress on each of the Statements of Common Ground (SoCGs) is detailed in the *Statement of Common Ground Report Update* (Applicant reference HE/A14/EX/98), submitted for Deadline 7. The updated report provides revised versions of all previously submitted SoCGs (at deadline 3), as well as drafts of new SoCGs which were not submitted for Deadline 3. Section 2 of the SoCG report sets out the status of each document.
18. Highways England notes the request for all SoCGs to be finalised by Deadline 8 (2 September 2015). This information has been communicated to stakeholders. Highways England will notify the Examining Authority of any obstacles relating to this deadline.
19. With regards to the Deadline 8 SoCG finalisation, Highways England notes that some items being discussed as part of the SoCGs may remain under discussion after 2 September 2015. Highways England will continue to engage with stakeholders throughout the remainder of the DCO process (as well as through the construction of the scheme), and as part of these discussions will endeavour to close out remaining issues.