

**A14 Cambridge to Huntingdon Improvement Scheme
Development Consent Order Application**

Representation by the Environment Agency

Deadline 15 – 11 November 2015

Environment Agency
Bromholme Lane
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Deadline 15: Further Information requested by the Examining Authority

Introduction

- 1.1 This submission is provided to respond to the request from your Examining Authority for our latest position with regards to a number of outstanding model issues, as detailed within your Rule 17 letter (dated 6 November).
- 1.2 We have incorporated within this response, an update on a number of other issues that we've previously raised. These matters have been discussed with the applicant and are provide herein with the intention to provide you with a holistic update on hydrological matters to enable you to inform the Secretary of State appropriately within your future report and recommendation.
- 1.3 Appendix 1 of this submission also confirms our acceptance of the disapplication of legislation under the Planning Act 2008.

National Policy Statement

- 2.1 We had previously raised the issue of the conflicting positions between the 'National Policy Statement for National Networks' and the applicant's '*Design Manual for Roads and Bridges*' (section 7.3 of EA submission for Deadline 13 – Examination Ref REP13-052). This was based on our concern on the potential increase of flood risk to property as a result of the proposed scheme. We have subsequently received details of amendments to the design and associated revised modelling which demonstrates this will no longer be the case.
- 2.2 The incorporation of the proposed requirement within the DCO (see section 4 of this response) ensures compliance with the accepted Flood Risk Assessment.
- 2.3 We therefore are of the opinion that the scheme will not be contrary to the principles of the Flood Risk policy of the NPS and that the Secretary of State can be assured that the scheme will not increase flood risk to property elsewhere (NPS section 5.99). Where it has been identified that there will be increased flood risk to areas of land then the applicant has informed the relevant landowners to seek their acceptance of this.

Construction Code of Practice (CoCP)

- 3.1 As previously stated within section 2.1 of our DL14 response, we are satisfied with the agreed bullet point 10 within section 14.1.1 of the CoCP.
- 3.2 We have agreed revised wording for bullet point 9 which has removed the reference to the "6 metres" distance that we contested within section 2.2 of our Deadline 14 response (ref. Rep 14-025). We are of the understanding that this will be submitted by the applicant with as part of their Deadline 15 documents.

Flood Risk Assessment (requirement)

4.1 We have been liaising with the applicant in relation to the wording for the requirement to secure the future compliance to Flood Risk Assessment. This was previously suggested within section 5.5 of our Deadline 14 submission. The specific wording is yet to be agreed so we are therefore supplying the version that we consider would be appropriate. Our proposed requirement is as follows;

- (1) *Subject to sub-paragraph (2), the authorised development must be carried out in accordance with the flood risk assessment (HE/A14/EX/262), including the mitigation measures detailed in it, so that no part of the authorised development is predicted to result in any exceedance of the flood levels to properties and land shown in the flood risk assessment.*
- (2) *Sub-paragraph (1) does not apply in any circumstance where the undertaker proposes to carry out a part of the authorised development otherwise than in accordance with the flood risk assessment but demonstrates any affected landowners are in acceptance of the predicted exceedance of the flood levels shown in the flood risk assessment. The agreement with the landowner and any relevant flood risk data will be supplied to the Environment Agency.*

4.2 The applicant has suggested a different requirement to sub paragraph (2) as set out below:

- (2) *Sub-paragraph (1) does not apply in any circumstance where the undertaker proposes to carry out a part of the authorised development otherwise than in accordance with the flood risk assessment but either demonstrates to the Environment Agency's satisfaction that the part of the authorised development concerned would not result in a material exceedance of the flood levels shown in the flood risk assessment or that all affected landowners accept the predicted exceedance of the flood levels shown in the flood risk assessment.*

With regards to part (2) of the above requirement, we do not consider it necessary for our organisation to subsequently confirm our 'satisfaction' with any increase in flood risk to land. We have a strategic overview role with regards to flood risk and therefore we would wish to receive details of any such activity. We do not wish to see any increase in flood risk to property.

We have an outstanding concern in relation to this wording and the inclusion of the term '*material*', as proposed by the applicant. In our view the inclusion of the term '*material*' would weaken the requirement as it is a subjective term. This could result in future contention due to the differences between National Policy (NPS) and the DMRB (as previously referred to within section 7.3 of our DL13 response, attached).

We are responsible for advising the ExA on the modelling and FRA outcomes and this forms part of our duty to protected third parties from increased flood risk. We also want to avoid protracted conversations at the detailed design stage as to what additional flood risk is '*material*'. We'd therefore not wish to have this word included in the requirement.

Should you as the Examining Authority, consider this to be inappropriate then we would request that the word be removed from any proposed order and the requirement wording set out in section 4.1 be incorporated in the DCO.

Cock Brook

5.1 We had previously identified within section 5.3 our Deadline 14 response, that there were some minor outstanding model issues. The latest model files which were provided by the applicant demonstrate only minor changes to the floodplain compensation areas. We are now in a position to confirm that the modeling is now considered to be acceptable.

Beck Brook

6.1 Within section 5.4 of our Deadline 14 response we raised concern as to the downstream modelling extents along the Beck Brook. The downstream boundary issue has now been resolved and the modeling and associated FRA are deemed acceptable and demonstrate no increase in flood risk to property as a result of the proposed scheme.

Oakington Brook

7.1 We had previously identified some concerns associated to the Oakington Brook model and FRA within our Deadline 13 response. The latest version of the model received supplied by the applicant has been reviewed. All the concerns that we have raised regarding the structure set up within the model have been answered with the model now deemed to be acceptable. This identifies that there will no longer be an increased risk to properties in the village downstream of the proposed A14 route.

River Great Ouse

8.1 Our Deadline 14 response, sections 6.3 & 6.4, referred to an inaccuracy (as we saw it) within the FRA (Section 10.4.1). We have been informed by the applicant that '*the properties will not flood*' this has been revised to read: "*the properties will therefore not flood from such an [1% Annual Exceedence Probability, plus climate change] event*".

Table 10.7 reports the impact of the scheme on the watercourse (as per other sections of the FRA). We understand that this will be submitted at Deadline 15 and are of the opinion that this is acceptable.

Other Watercourses

9.1 Further to the modelling and FRA updates as referred to above, we have received and reviewed data for a number of other watercourses along the proposed route. For Utton's Drove Drain and Longstanton Brook only minor amendments have been made to these models which would not affect flood levels. We are also satisfied with the West Brook and Ellington Brook. These demonstrate no increase in flood risk to property as a result of the proposed scheme.

We therefore have no outstanding concerns relating to the modeling and FRA data to be submitted with the application and certified as part of any subsequent order. This is on the understanding that the 'latest versions' of any data we've received are incorporated within the Deadline 15 submission by the applicant.

END

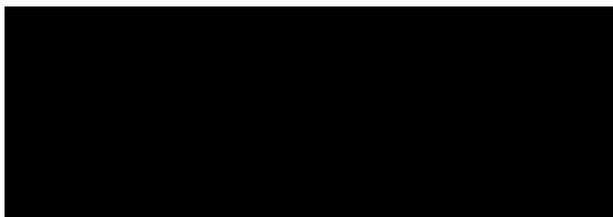
A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order Application

Environment Agency

This letter constitutes consent under s150 Planning Act on behalf of the Environment Agency in relation to the application for the A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 201 [] dated 30 December 2014.

We confirm that the Environment Agency gives consent under s150 Planning Act to the dis-application of the legislation listed in Article 3(1) (a) and (b) and (2) of the draft of the DCO submitted by Highways England for Deadline 13 on 30 October 2015 with reference number HE/A14/EX/192.

This consent is conditional on the inclusion of Protective Provisions in the form of the draft Protective Provisions which appear in Schedule 8 Part 3 of the draft of the DCO submitted by Highways England for Deadline 13 on 30 October 2015 with reference number HE/A14/EX/192 within any DCO granted by the Secretary of State pursuant to the above application.



Claire Jouvray
Partnerships and Strategic Overview Team Leader
Cambridgeshire and Bedfordshire

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Part X

For the Protection of the Environment Agency

1. The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

2. In this Part of this Schedule—

“access route” means an access route used by the Agency prior to the commencement of construction of a specified work for accessing a drainage work;

“the Agency” means the Environment Agency;

“construction” includes execution, placing, altering, replacing, relaying and removal and

“construct” and “constructed” are to be construed accordingly;

“drainage work” means any watercourse forming part of a main river as defined in the Water Resources Act 1991 and includes any land which provides or is expected to provide flood storage capacity for any such watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence and any ancillary works constructed as a consequence of works carried out for drainage purposes;

“fishery” means any waters containing fish and fish in such waters and the spawn, habitat or food of such fish;

“maintenance” has the same meaning as article 2(1);

“plans” includes sections, drawings, specifications and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 9 metres of a drainage work or is otherwise likely to—

(a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;

(b) affect the flow, purity or quality of water in any watercourse or other surface waters or ground water;

(c) cause obstruction to the free passage of fish or damage to any fishery; or

(d) affect the conservation, distribution or use of water resources; and

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer.

3. (1) Before beginning to construct any specified work, the undertaker must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the receipt of the plans reasonably require.

(2) Plans of a specified work submitted under sub-paragraph (1) relating to that part of Work No. 5 comprising the crossing of the river Great Ouse may not show a reduction of the width of the navigable channel to less than 12 metres or a reduction of the navigable headroom (measured from the normal water retention level of 10.05 metres AOD) to less than 3 metres unless the Agency has given its prior written approval in principle to such a reduction following a request made by the undertaker, such approval not to be unreasonably withheld or delayed.

(3) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 12.

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(4) Any approval of the Agency required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been given if it is neither given nor refused within 8 weeks of the submission of the plans or receipt of further particulars if such particulars have been required by the Agency for approval and, in the case of a refusal, accompanied by a statement of the grounds of refusal; and
- (c) may be given subject to such reasonable requirements as the Agency may make for the protection of any drainage work, fishery or water resources, for the prevention of flooding or pollution or in the discharge of its environmental duties including those under the Environment Act 1995, the Natural Environment and Rural Communities Act 2006 and the Water Environment (Water Framework Directive)(England and Wales) Regulations 2003.

(5) Any requirement made by the Agency under sub-paragraph (4)(c) may include-

- (a) a requirement for the undertaker to carry out monitoring during the implementation of any de-watering scheme approved by the Agency under this paragraph and to supply data arising from that monitoring to the Agency; and
- (b) a requirement for the undertaker not to prevent or materially restrict the Agency's use of any access route during construction of the specified work or, where that is not possible owing to the nature of the work, a requirement for the undertaker to provide for use by the Agency during construction of the specified work a reasonably suitable alternative to the access route.

(6) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

4. Without limitation on the scope of paragraph 3, but subject always to the provisions of that paragraph as to reasonableness, the requirements which the Agency may make under that

paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased, by reason of any specified work.

5. (1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 4 must be constructed—

- (a) without unnecessary or unreasonable delay;
 - (b) in accordance with the plans approved or deemed to have been approved or settled under this Schedule; and
 - (c) to the reasonable satisfaction of the Agency,
- and an officer of the Agency is entitled to watch and inspect the construction of such works.

(2) The undertaker must give to the Agency not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is completed.

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(3) If the Agency reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of any specified work.

(4) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the Agency may by notice in writing require the undertaker at the undertaker's own expense to comply with the requirements of this Part of this Schedule or (if undertaker so elects and the Agency in writing consents), such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.

(5) Subject to sub-paragraph (6) and paragraph 8 if, within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served upon the undertaker, it has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any expenditure incurred by it in so doing is recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency must not except in an emergency exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined.

6. (1) Subject to sub-paragraph (5), the undertaker must from the commencement of the construction of a specified work until the date falling 12 months from the date of completion of such specified work ("the maintenance period"), maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the undertaker for the purposes of or in connection with the specified work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence. Upon the expiry of the maintenance period, the drainage work must be maintained by the highway authority of the highway to which the specified work relates.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the person liable for maintenance to repair and restore the work, or any part of such work, or (if the person liable for maintenance so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) Subject to paragraph 8, if, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the person liable for maintenance of the specified work, that person has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from the undertaker.

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(4) In the event of any dispute as to the reasonableness of any requirement of a notice served

under sub-paragraph (2), the Agency must not except in a case of emergency exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined.

(5) This paragraph does not apply to:

- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of this Order from doing so; and
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule.

7. Subject to paragraph 8, if by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the same and recover from the undertaker the expense reasonably incurred by it in so doing.

8. Except in an emergency nothing in paragraphs 5(5), 6(3) and 7 authorises the Agency to execute works on or affecting an adopted highway without the prior consent in writing of the undertaker or Cambridgeshire County Council, whichever is the highways authority for the adopted highway in question, such consent not to be unreasonably withheld or delayed.

9. The undertaker must indemnify the Agency in respect of all costs, charges and expenses which the Agency may reasonably incur or have to pay or which it may sustain—

- (a) in the examination or approval of plans under this Part of this Schedule;
- (b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule; and
- (c) the carrying out of any surveys or tests which are reasonably required in connection with the specified works.

10. Without affecting the other provisions of this Part of this Schedule, the undertaker must indemnify the Agency from all claims, demands, proceedings, costs, damages, expenses or loss, which may be made or taken against, recovered from, or incurred by, the Agency by reason of—

- (a) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence;
- (b) any raising or lowering of the water table in land adjoining the authorised development or
any sewers, drains and watercourses;
- (c) any flooding or increased flooding of any such lands; or
- (d) inadequate water quality in any water in any watercourse or other surface waters or in any groundwater,

which is caused by the construction of any of the specified works or any act or omission of the undertaker, its contractors, agents or employees whilst engaged upon the work.

(2) The Agency must give to the undertaker reasonable notice of any such claim or demand and no settlement or compromise may be made without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

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11. The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under the provisions of this Part of this Schedule.

12. Any dispute arising between the undertaker and the Agency under this Part of this Schedule is to be determined by arbitration.