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Mr B Kinane and Ms E Goodman
The Inches
Holyport Road
Maidenhead
SL6 2HD

Your Ref:

Our Ref: TR010019

Date: 23 December 2015

Dear Mr Kinane

Application by the Highways Agency (now Highways England) for an Order Granting Development Consent for the proposed M4 Junctions 3 to 12 Smart Motorway

Thank you for your email dated 19 November 2015. I am sorry that your letter took a while to reach me; the email address you sent it to was incorrect. You copied the letter to a number of addressees and I am replying on behalf of the Planning Inspectorate as I have responsibility for the overall management of examinations. I have looked at all of the concerns raised in your letter on a number of matters.

I wish to reassure you that your representation at the hearing has been recorded and that your three representations submitted to date have all been accepted in to the examination. Nationally significant infrastructure projects are examined under the Planning Act 2008 (PA2008). The PA2008 provides for a predominantly written process, but also allows for open floor hearings to be requested by interested parties¹. In respect of the examination of the M4 proposal, these were held on 16, 19 and 20 November. Other issue specific hearings can be held at the discretion of the Examining Authority (ExA).

I am aware that you have submitted a relevant representation and two further representations in writing. These representations set out your concern in respect of boundary treatments and artificial lighting associated with the proposed scheme in the vicinity of your property. This relates predominantly to the visual impact that would arise from traffic which would run closer to your property if the scheme were to be consented and brought into operation. On 10 November 2015 the ExA visited your property during its inspection of the site to view the existing motorway from your back garden to inform their understanding of your concerns.

¹ 'Planning Act 2008: examination of applications for development consent', available here: <https://www.gov.uk/government/publications/planning-act-2008-examination-of-applications-for-development-consent>

As you explained in your letter you chose to attend the issue specific hearings on 17 and 18 November as you felt that your particular concerns were relevant to the published agenda for those days. Issue specific hearings are called by the ExA where they consider that asking questions or hearing directly from interested parties can assist their examination of the project. The control of the agenda is down to the ExA and the published agenda makes clear that changes may occur on the day to make best use of the time available.

For the issue specific hearing on 18 November 2015, a number of questions had been published in advance including question 11 under item E in relation specifically to the visual impact on adjacent houses of the proximity of the new running lane. Having heard extensive representations from other interested parties in relation to noise, air quality and traffic forecasting, due to time constraints the ExA chose to exercise its discretion and requested for responses to be provided to the items on the agenda dealing with visual impact to be provided in writing. The ExA made clear their preference to capitalise on the attendance of the Environmental Agency, a statutory advisor to government, to ensure that agenda items relating to the water environment could be tested appropriately.

The request for written responses in relation to visual impact was not opposed by any interested parties in attendance as can be heard in the audio recording². However, the ExA clarified that it would not preclude oral representations from being made by any interested parties who would not be satisfied with making their representations in writing. At this point you contributed accordingly, repeating your concerns previously set out in writing.

I am sorry if you felt that the lead member of the ExA, Mrs Burden, appeared dismissive of your comments but I can assure you that is not the case and indeed she was reinforcing the point that if you felt best able to put your case orally then you were welcome to do so. However, under the PA2008 it is not always the case that other parties will respond directly to points being put – this is different to planning inquiries held under the Town and Country Planning Act – as it is for the ExA to decide what questions need to be put or from whom responses should be requested.

You should now be aware that the ExA's second round of written questions have been published (11 December 2015) and contain specific questions in relation to noise and lighting and the study area of an enhanced mitigation strategy³ (EMS). The EMS was announced at the open floor hearing held on 16 November 2015, and is expected to be submitted by the applicant to the examination imminently. The examination is not yet complete and there will be further written responses to those questions and potentially further hearings and questions.

The ExA can also exercise its discretion to accept additional written representations⁴ to be read in conjunction with the examination at any time. In the event that the ExA

² Hearing audio available here:

<http://infrastructure.planninginspectorate.gov.uk/projects/south-east/m4-junctions-3-to-12-smart-motorway/?ipcsection=docs&stage=4&filter=Hearings>

³ <http://infrastructure.planninginspectorate.gov.uk/projects/south-east/m4-junctions-3-to-12-smart-motorway/?ipcsection=docs&stage=4&filter=Procedural+Decisions>

⁴ Additional representations may be relevant and important written representations which are not directly attributable to a timetabled deadline.

chooses not to explicitly invite representations about it, such additional representations might include responses from interested parties about the adequacy of the EMS. You will note that there are also dates reserved in February 2016 for any further hearings that the ExA considers it is necessary to hold. You will therefore have the opportunity to make further representations or comments in relation to your concerns and particularly about mitigation proposals.

At the end of the examination, which must be completed by 3 March 2016, the ExA will produce a recommendation report to the Secretary of State for Transport who will take the final decision in relation to whether development consent is granted and, if it were to be granted, the form of the consent and any mitigation requirements associated with it. The report will contain the ExA's view on matters such as noise and visual impacts and any disagreements between parties if these are outstanding at the end of the examination. I would therefore encourage you to continue to engage in the examination as matters are still under active consideration.

I hope I have addressed all your points in so far as it is possible to do so at this point during the live examination. We also welcome feedback from interested parties and there will be an opportunity to comment on your experience of the examination once it is complete. If you have any further questions or concerns in relation to the process, please do not hesitate to contact the case manager, Richard Price, in writing or via the dedicated examination email address: M4Junctions3to12@pins.gsi.gov.uk

Yours sincerely

Pauleen Lane

**Dr Pauleen Lane CBE FICE MBA PhD BSc
Group Manager National Infrastructure**

Cc: Rt. Hon. Teresa May MP
Steve Quartermain, Acting Chief Executive

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the National Infrastructure Planning website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.