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Your Ref
TR010020
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SBC/TGH/151216.0002
Date
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By Email A19TestosJunction@pins.gsi.gov.uk

Dear Mr Williams

Proposed A19/A184 Testo's Junction Improvement Development Consent Order - Applicant's Submissions - Deadline 3

In accordance with the Examination Timetable please find enclosed the Applicant's submissions to the Examination in respect of Deadline 3. Full details of the submissions are provided within the remainder of this letter.

In order to assist the Examining Authority (**ExA**) and Interested Parties (**IPs**) to navigate the Applicant's latest submissions and to explain where application documents have been superseded, the Applicant has also updated its Application Document Tracker (**document reference TR010020/APP/1.4(3)**). The updated Tracker, which supersedes the version submitted on 18 December 2017, is also enclosed with this letter.

1 Written submissions of case

1.1 The Applicant's written submissions of the case it put forward at each of the following hearings which took place between 16 and 19 January 2018 are enclosed:

1.1.1 *Open Floor Hearing (OFH)* on 16 January 2018 (**document reference TRO10020/APP/7.14**);

1.1.2 *Issue Specific Hearing (ISH) 2 into the interrelationship of major proposals in the area, environmental and landscape/ visual impact assessment issues* on 17 January 2018 (**document reference TRO10020/APP/7.15**);

1.1.3 *Compulsory Acquisition Hearing 1* on 18 January 2018 (**document reference TRO10020/APP/7.16**); and

1.1.4 *ISH3 into the draft Development Consent Order (DCO)* on 19 January 2018 (**document reference TRO10020/APP/7.17**)

2 Applicant's comments on South Tyneside Council's Local Impact Report

2.1 The Applicant's comments on the Local Impact Report which was submitted to the Examination by South Tyneside Council at Deadline 2 are enclosed (**document reference TRO10020/APP/7.18**).

3 Applicant's comments on Responses to ExA's Written Questions (ExQ1)

3.1 The Applicant's comments on the responses to the ExA's first round of written questions which were submitted to the Examination at Deadline 2 are enclosed (**document reference TRO10020/APP/7.19**).

4 Other Updated Documents and Submissions

Statements of Common Ground

4.1 A final and signed Statement of Common Ground (**SoCG**) between the Applicant and South Tyneside Council is enclosed (**document reference TRO10020/APP/7.11(1)**).

4.2 There are no substantive updates to the version of the SoCG between the Applicant and the Environment Agency which was submitted at Deadline 1.

Revised draft Development Consent Order

4.3 The Applicant has made various amendments to the dDCO and therefore encloses an updated version with this submission (**document reference TRO10020/APP/3.1(4)**).

Document explaining changes made to Development Consent Order submitted at Deadline 3

4.4 As requested by the ExA in its questions on the dDCO set out in Table 1 to Annex E of its letter of 17 October 2017, the Applicant has prepared a document which explains the changes which have been made to the version of the dDCO which is being submitted at Deadline 3; a copy of this document is enclosed (**document reference TRO10020/APP/3.5**).

Report of Non-statutory Consultation

4.5 As set out in the ExA's letter of 24 November 2017, the ExA made a Procedural Decision to accept the documents listed in that letter into the Examination.

- 4.6 The ExA decided that, to the extent those documents may have been of interest to persons notified of the acceptance of the application but who had not become IPs at that point, the Applicant was to:
- 4.6.1 notify those persons about the updated application documents, including the Environment Statement addendum and where they could be obtained;
 - 4.6.2 provide notifications of the non-statutory consultation in local newspapers and at sites in close proximity to the project;
 - 4.6.3 provide at least 28 days for the receipt of comments on the documents; and
 - 4.6.4 provide a report transmitting any comments received regarding these matters to the ExA by Deadline 3 for consideration.
- 4.7 The Applicant confirms that this non-statutory consultation was undertaken between 30 November 2017 and 10 January 2018. In accordance with the ExA's request, the Applicant has prepared a report of the comments received in response to the non-statutory consultation which is now enclosed (**document reference TRO10020/APP/7.20**).
- Letter of comfort to Mr Gilhespy and Note on Construction Complaints Procedure in Relation to Noise and Dust***
- 4.8 As discussed with the ExA at the OFH, the Applicant has enclosed a letter of comfort provided to Mr Dennis Gilhespy, the resident at West House Farm and also a document referred to in the letter (which will be forwarded to Mr Gilhespy separately) setting out how a person at a sensitive receptor should deal with noise and dust concerns during the construction phase of the Scheme (**document reference TRO10020/APP/7.21**).
- 4.9 By way of summary, the letter sets out the following undertakings:
- 4.9.1 Temporary land (shown hatched in the sketch attached to the letter of comfort) will not be used for storage of plant or materials which will obscure the line of sight between the storage buildings and the house at West House Farm.
 - 4.9.2 Notwithstanding the powers in the dDCO, Highways England will not use or acquire land as shown in the sketch attached to the letter without his approval.
- 4.10 The Applicant believes that giving such an undertaking provides Mr Gilhespy the level of comfort he requires without causing him to incur unnecessary legal fees negotiating a deed of agreement. Mr Gilhespy has confirmed to the Applicant that he is content with the contents of and has signed the letter. As a public body, an undertaking such as this, made in public, is proportionate because it provides him with a legitimate expectation that the Applicant will not act in a manner inconsistent with this without putting him to undue expense.

Compulsory Acquisition Negotiations Status Report

- 4.11 As requested by the ExA at the CAH which was held on 18 January 2018, the Applicant has prepared a compulsory acquisition negotiations status report, a copy of which is enclosed (document reference TRO10020/APP/7.22).

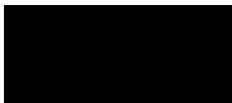
Statutory Undertakers - Section 127 of the Planning Act 2008

- 4.12 As part of a discussion during the CAH, the ExA requested that the Applicant contact all of the affected statutory undertakers to confirm that they considered the test(s) in section 127 of the Planning Act 2008 had been satisfied. Having considered the issue further, the Applicant notes that section 127 is only engaged where “*a representation has been made about an application for an order granting development consent before the completion of the examination of the application, **and the representation has not been withdrawn**”.*
- 4.13 As noted during the CAH, a letter of withdrawal from National Grid Electricity Transmission Plc will follow shortly. Accordingly, there is no subsisting representation in respect of the application which would trigger section 127. On further reflection the Applicant does not consider it necessary or appropriate to contact statutory undertakers who have not made (or retained) a representation in relation to section 127 as the section is not now considered to be relevant, as a matter of law, to the Scheme. The Applicant does not want to put statutory undertakers (and potentially Highways England) to further expense as a result of further discussions which would go beyond the scope of section 127.

Groundwork South Tyneside and Newcastle

- 4.14 Since completion of the enclosed documents which are being submitted at Deadline 3, the Applicant has become aware that Groundwork STAN intends to withdraw its representation in respect of the Scheme.

Yours sincerely



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