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Your Reference: **TR010022**

Our Reference: **HE514503**

28 April 2020

Dear Tracey,

**Submission made by Highways England pursuant to Deadline 11 of the Examination of the A38 Derby Junctions Development Consent Order Application**

Please find below a list of documents which form Highways England's submission for Deadline 11 of the Examination of the A38 Derby Junctions scheme. This information is submitted in accordance with the extended Examination Timetable received in the Rule 8(3), letter dated 3 April 2020 and the Rule 17 request for further information dated 21 April 2020.

This submission comprises the following documents:

- An updated **Guide to the Application** (Document Reference 8.2(j))
- Applicant's **Responses to Information or Submissions Received by Deadline 10** (Document Reference 8.96)
- Applicant's **Response to Rule 17 Request for Further Information** (Document Reference 8.97)
- **Statements of Common Ground Position Statement** (Document Reference 8.98)

In respect of the list of documents referred to above, where needed and particularly for documents that have not been requested by the ExA, further explanation is provided within the document as to its purpose and the reason for the submission. Documents submitted have been provided in PDF format.

In respect of the Rule 17 request, HE would also wish to make the following observations.

The ExA will be very aware, and has itself reminded participants to the A38 Examination, that the examination process for nationally significant infrastructure projects is primarily a written exercise with hearings reserved for matters which require oral representations to support the ExA's examination of a Scheme. In respect of the A38 examination, all of the originally planned hearings have already taken place; and the additional hearings (introduced as a result of procedural issues) relating to air quality and compulsory acquisition matters were postponed from March due to Covid-19.

Through the ExA's questions, the hearings that have taken place, and the submissions of all parties to the examination there has already been extensive opportunity for parties to make submissions and representations in relation to the A38 proposal. Highways England also considers that significant progress has been made in agreeing matters with other parties to the examination and a Statements of Common Ground (SoCGs) Position Statement is provided to illustrate this.

Based on the matters where it has not been possible to reach agreement, Highways England considers that the examination of the Scheme can reasonably be concluded in written format without the need for further hearings. If further hearings are to be held, then Highways England considers that these should be limited to the matters that were due to be discussed at the March hearings. There is no basis on which matters which have already been fully examined need to be re-opened with additional virtual hearings.

Highways England also understands that Derby City Council, Derbyshire County Council and Erewash Borough Council have a similar view to Highways England and agree that the process could be reasonably concluded via written means.

As set out above, substantial progress has been made in reaching agreement with various parties and recording this in the SoCGs. These documents do still have matters that are 'Under Discussion' as per the attached position statement (Document 8.98). In many cases this is despite the best endeavours of Highways England to reach agreement to date and further dialogue will be undertaken where there is considered to be a reasonable prospect of issues being resolved (based on the position being taken by the relevant party and the understanding and experience of how discussions have progressed to date). The ExA will also note that in some cases, discussions do not need to be resolved during the examination phase and therefore the status of these and timing of any further actions is detailed in Document 8.98.

Notwithstanding this, in the event that the ExA does decide that further hearings are necessary, Highways England would wish to make the following points:

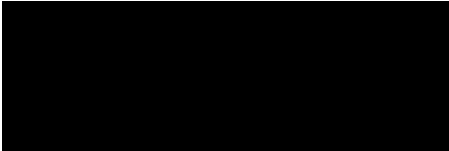
- A detailed structure and timed agenda with the provision of regular breaks should be provided in advance of any hearing to ensure that the topics and the specific issues to be considered are clearly set out and to ensure that all parties are clear on the points to be covered. This will ensure that matters can be dealt with efficiently and clearly.
- The timings on the agenda will need to be adhered to so that people (including the members of Highways England's professional team) can dial in/out of the hearings as they progress. This will reduce the need for people to be continuously logged into in the hearing which may cause issues with stability of the virtual hearing platform.
- In addition to the existing statutory process and associated guidance for the conduct of hearings, the ExA may wish to consider issuing additional guidance to ensure the format and content is strictly controlled, to ensure fairness to all parties.
- In the event that the ExA decides to hold a hearing(s), the process should be kept under review so that lessons learnt from the first hearing can be applied to any subsequent hearings deemed necessary.

Also as requested by the ExA, Highways England has completed a 'Table for Rule 17 Request' for each of the potential speakers (including all of the environmental specialists) for any hearings. These are included in the Applicant's response to Rule 17 request in the

above list. It should be noted that not all those people who have completed a form need to be present at a hearing. However, there will be a core team present who will be supported by specialists as and when necessary. Highways England can provide further details on the need for specialists to attend hearings once the topic areas are known, however, any member of the professional team will have the requisite technology available to enable participation.

If there is any further information that would be useful please do not hesitate to get in touch.

Yours sincerely



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