

PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

**WRITTEN SUMMARY OF ORAL SUBMISSIONS MADE AT HEARINGS ON 13
FEBRUARY 2019 REGARDING THE APPLICATION BY SUFFOLK COUNTY COUNCIL
FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE LAKE LOTHING
THIRD CROSSING**

PLANNING INSPECTORATE REFERENCE NUMBER TR010023

**WRITTEN SUMMARY OF ORAL SUBMISSIONS MADE AT HEARINGS ON 13
FEBRUARY 2019 ON BEHALF OF:**

**20013284 - OVERSEAS INTERESTS INC
20013285 - WAVENEY FORK TRUCKS LIMITED
20013286 - LIFT TRUCK RENTALS LIMITED,
20013287 - NEXEN LIFT TRUCKS LIMITED,
20013288 - OAKES RECRUITMENT LIMITED,
20013289 - TEAM OAKES LIMITED
20013290 - HITECH GRAND PRIX LIMITED**

DATED: 22 FEBRUARY 2019

Introduction and background

- 1 This written summary is made in accordance with Item 12 of Annex A to your Rule 8(3) and Rule 13 letter dated 4 February 2019 in relation to oral submissions made at the hearings on 13 February 2019 on behalf of each of the above clients (which for the purposes of this summary shall be referred to as the “**Nexen Group**”).
- 2 Jamie Childs of Howes Percival and John Jones of Colliers were in attendance at the 13 February 2019 hearings on behalf of the Nexen Group.
- 3 The Nexen Group’s position on the proposed project and matters relating to the draft DCO and compulsory acquisition is set out in full in the written representations that have been made to date.
- 4 In this written summary we refer to the land that our clients’ own/occupy (as appropriate) under title number SK264748 as “**the Land**” and the project proposed by Suffolk County Council (“**Applicant**”) as the “**Proposed Scheme**”). The area in which our clients intend to develop which is shown as Plot 3-56 on the Land Plans is referred to below as “**the Development Land**”.

Draft Development Consent Order

- 5 It was confirmed that the Nexen Group’s position on the draft DCO is set out in full in the written representations that have been made on their behalf to date.
- 6 Notwithstanding this, attention was drawn to the fact that the most recent draft DCO does not address Nexen Group’s request set out in our written representations of 8 January 2019 for a minimum vertical underpass clearance of 6.5m for the underpass to the Land in the Proposed Scheme (as originally submitted) to be secured and included as a requirement in the draft DCO and for the current allowance for a 1.1m downward vertical limit of deviation for Work No. 1E to be removed.
- 7 It was also highlighted that in the event that the proposed “non-material” changes to the Proposed Scheme are taken forward (which the Nexen Group intend to comment on separately) we expect that a revised rights of way and access plan will need to be prepared clearly showing any proposed private means of access to the Land.

Compulsory Acquisition

- 8 Submissions relating to the compulsory acquisition of land and rights were dealt with in a single together with the proposed powers of temporary possession.
- 9 It was explained that in this case the use of powers of compulsory acquisition will remove the Nexen Group’s ability to access the Land.
- 10 This is because both the rights to access the public highway in the manner that the Nexen Group’ currently do over Plot 3-30 will be extinguished and the alternative access to the Land from the public highway pursuant to the rights in the transfer of 18 September 2003 referred to in our written representations of 8 January 2019 will be prevented following the compulsory acquisition of land and rights (respectively) over Plots 3-31 and 3-32.

- 11 The point was made that the businesses operating on the Land depend on meeting (and demonstrating that they can meet) delivery deadlines which requires constant access to and from the Land.
- 12 In this regard, it was noted that the Applicant accept in their draft Interim Code of Construction Practice that access to the Land could be restricted during the construction of the Proposed Scheme in “exceptional circumstances”. At this stage it was unclear what the extent of these “exceptional circumstances” would be and whether this was technically achievable.
- 13 In response to the Applicant’s comment at the oral hearing that access to the Land will be maintained at all times it was said that whilst the Nexen Group welcome these warm words we had no evidence that this was possible in practice.
- 14 It was confirmed that negotiations with the Applicant remain on-going and the Nexen Group are willing to work with the Applicant to achieve a solution to its concerns the Nexen Group remain unsatisfied regarding the proposals to access the Land that are needed as a result of the proposed compulsory acquisition of its current accesses.
- 15 It was stressed that the Nexen Group have consistently stressed that an access to the east of the Lings site to the south of the Land was the most satisfactory solution to the access issues arising from the Proposed Scheme and related compulsory acquisition. It was put that this is the only solution which could guarantee continuity of acceptable access to and movements within the Land.
- 16 It was explained that this was a point raised directly with the Applicant shortly following our instruction in this matter in May 2018. The Applicant failed to enter into discussions with the Nexen Group’s technical consultant at that time and submitted the application without doing so and did not include sufficient land within the Order Limits of the submitted scheme to facilitate an access to the east of the Lings site through to the Land.
- 17 We confirmed that in light of the above, the Nexen Group was surprised to see the proposed “non-material” changes to the Proposed Scheme including a proposal for an access to the east of the Lings site. However, this is something that the Nexen Group intend to comment on separately as part of the consultation on the proposed “non-material” changes to the Proposed Scheme.
- 18 It was submitted that it is not only access to the Land which is of concern to the Nexen Group but also movements within the Land which are key to the Nexen Group’s operational requirements.
- 19 Although the proposed “non-material” changes to the Proposed Scheme will be commented on separately by the Nexen Group the point was made that this proposed access to the solution has the potential to create “pinch points” and safety concerns for operatives at work in this area.
- 20 It was noted that the highway authority have stated in the current Statement of Common Ground that the *“revised access proposals to the [Nexen] site are acceptable in principle and would provide suitable access to Nexen’s ‘development land’*. It was put that there is absolutely no information to explain how the highway authority have reached this conclusion and what has been taken into account in forming this conclusion. For example, have the practicalities of the construction of a development on the Development Land (on Plot 3-56) been taken into account.

- 21 It has been established that the Development Land already has a separate and independent access pursuant to rights in the transfer of 18 September 2003 referred to in our written representations of 8 January 2019 and is now facing the prospect of an access through an underpass which will need to interact with the current business operations of the Nexen Group on the Land. It was confirmed that the Nexen Group are currently considering the impact of the use of an access through the underpass on the development of the Development Land but at this stage there was no evidence to confirm whether this could be acceptable.
- 22 The point was made that it was certain that the redevelopment envisaged in the planning permission DC/06/1331/OUT dated 1 March 2007 could not be developed using an access through an underpass given that this scheme required the use of the access road on the Lings site to the south of the Land on which our clients benefit from rights as set out in the transfer of 18 September 2003.
- 23 It was reiterated that the Nexen Group have a clear intentions to develop the Development Land (which forms part of an Enterprise Zone and has development plan policy support for employment development) and that this sort of regeneration was aligned with the regeneration objectives of the Proposed Schemes. It is the Nexen Group's position that the Proposed Scheme and related compulsory acquisition of its accesses to the public highway threaten this development.
- 24 In this regard, we submitted that the proposed temporary possession of the Development Land would frustrate development in this location throughout the period of temporary possession.
- 25 It was also put that the Nexen Group had received conflicting information about the Applicant's intended use of the Development Land during any period of temporary possession and whether this was needed for construction or to facilitate a phased re-configuration of the Lings site to the south. If this was needed for a construction compound then how could the Applicant consider using this for Lings and vice-versa. Indeed, we have not seen any evidence explaining why the full extent of Plot 3-56 is needed for any such purpose and whether any alternatives have been considered.

Howes Percival LLP

22 February 2019