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Date: 12 April 2019  
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Your ref: TR010023  
Our ref: SCC/LLTC/EX/104

Dear Richard,

## **Lake Lothing Third Crossing ('LLTC') – DCO Application – Reference TR010023**

### **Applicant's position on Proposed Non-Material Changes to the Scheme as at Deadline 8 (12 April 2019)**

I write to provide the Examining Authority ('ExA') with an update on the Applicant's current position regarding proposed non-material changes ('NMC') to the Scheme, as presented in its Deadline 4 submission, document reference REP4-013. I should be grateful if the ExA would note the Applicant's position on NMC1 and NMC2 (as set out in paragraphs 1 and 2 respectively, below) and its preference (as set out in paragraph 3 below) for how these are dealt with in the context of the ExA's Procedural Decision on the NMCs which is timetabled, in the Rule 8 letter, to be issued on Monday 15 April 2019.

#### **1. NMC1 – new turning head on Canning Road**

- 1.1 The ExA is aware of the Applicant's sustained efforts to secure the formal written consent of Homes England (the Homes and Communities Agency) (hereinafter referred to as 'the HCA') to the inclusion in the Development Consent Order ('DCO') of the 'additional land' (as defined in the Infrastructure Planning (Compulsory Acquisition) Regulations 2010) which is required to deliver the new turning head comprised in NMC1. The ExA is also aware that the HCA is the only party with an interest in the 'additional land' which has not yet provided its formal written consent to the acquisition and use of that land for the purposes of NMC1.
- 1.2 The ExA will recall that the ongoing delay to the granting of the HCA's consent has been attributed to the fact that the request for that consent was received by the HCA in the run-up to its financial year end (31 March), and that whilst the matter of NMC1 was agreed in principle between the HCA and the Applicant, the HCA's delay in providing formal sign-off was due to an administrative backlog associated with its financial year end. The HCA's email dated 15 March 2019 (at 10:34), which is

included in Appendix J to the Applicant's Consultation Report on the Proposed Non-Material Changes to the Application [REP7-003] submitted to the ExA at Deadline 7 on 15 March 2019, corroborates this explanation.

- 1.3 Since the HCA's year end passed, the Applicant has continued to seek the HCA's formal written consent to the inclusion of the additional land in NMC1, but has been given to understand that although the matter is indeed agreed in principle, the administrative difficulties delaying the processing of the written confirmation of that agreement persist.
- 1.4 In an endeavour to overcome this issue, and having regard to the HCA's current overarching aim to divest itself of interests in land without potential to support its housing delivery objective, the Applicant has recently secured the necessary internal approvals to accelerate its own land acquisition strategy in respect of the HCA's land that is required for the Scheme. As such, whilst the Applicant's original intention was to acquire the HCA's land contemporaneously with other land required for the Scheme in due course in the event that the DCO was granted, the Applicant has now offered to acquire the HCA's land (required for the Scheme) as soon as is reasonably practicable, provided that the consent required in connection with NMC1 is granted at the HCA's earliest opportunity and ideally by Deadline 8 (at 11:59pm today).
- 1.5 Accordingly, the HCA's response is currently awaited. The Applicant is confident that the necessary consent will, ultimately, be granted; however, should it not be forthcoming, and the signed consent to NMC1 still not be provided, by Deadline 8 (at 11:59pm today), then the Applicant's preferred way forward with regard to NMC1 and the NMCs collectively, in the context of the ExA's Procedural Decision scheduled for 15 April 2019, is as set out in paragraph 3 below.

## **2. NMC2 – revised parking provision in Riverside Road and Canning Road**

- 2.1 The Applicant is aware of the late representation submitted by Squire Patton Boggs yesterday (11 April 2019) on behalf of its client, Statuslist, requesting an amendment to the extent of one of the areas of on-street parking provision proposed in NMC2.
- 2.2 The Applicant is content to amend NMC2 as requested by Squire Patton Boggs on behalf of its client. The amendment to NMC2 would involve a small reduction in the number of on-street parking bays on Riverside Road (where its alignment runs in parallel with Lake Lothing) commensurate with there being no parking bays on the length of Riverside Road which would pass through land which is owned by, and proposed to be developed by, Statuslist.
- 2.3 The Applicant estimates that if the proposed amendment to NMC2 was to be accepted by the ExA, this would result in a proposal for approximately 4 fewer parking bays than are currently proposed in NMC2 but notes that the on-street parking provision proposed in NMC2 (as amended) would still be greater than that which was included in the Applicant's original proposals as submitted in July 2018.

- 2.4 The effect of the proposed amendment to NMC2 is articulated in the correction to the text of paragraph 4.2.3 in REP4-013, as set out below:

*“Currently, there are approximately 51 on-street parking spaces (assuming a 6m length per bay) that were proposed to be removed as a consequence of the Scheme, save for 8 bays that were to be provided on Canning Road, with a 2-hour time restriction. The proposed change will instead result in the retention of ~~36~~ 32 parking spaces, none of which will be subject to time restrictions.”*

- 2.5 As noted above, the Applicant is content for NMC2 to be amended as proposed above.

### **3. Applicant’s preferred way forward**

- 3.1 For the reasons outlined in paragraph 1 above, the Applicant is confident that the HCA’s consent will be granted in respect of NMC1. The delay in providing the consent in the format sought appears to be wholly attributable to logistics rather than matters of principle. The HCA’s email of 15 March 2019 (reproduced in Appendix J to REP7-003) attests to this. As such, it is essentially a timing issue.
- 3.2 For this reason, if the HCA’s consent is not forthcoming in advance of the ExA’s Procedural Decision due on 15 April 2019, then the Applicant’s preference (if the ExA takes the view that NMC1 cannot be accepted until further written evidence of the HCA’s agreement to NMC1 is produced) would be for the ExA to defer its decision, not just with regard to the acceptance of NMC1 but on the acceptance of all of the NMCs proposed in REP4-013, from 15 April 2019 to a later date.
- 3.3 The Applicant would prefer that the NMCs were not made the subject of separate Procedural Decisions. The Applicant’s reasons for preferring a single Procedural Decision covering all of the NMCs are twofold:
- 3.4 Firstly, the Applicant, as stated above, is confident that the HCA’s consent to NMC1 will, ultimately, be granted, such that the complexity of separate Procedural Decisions is not likely to be justified; and
- 3.5 Secondly, the Applicant is mindful of the fact that if a Procedural Decision is issued on 15 April 2019, the Applicant will be required to produce all of the consequentially amended application documentation, incorporating the Scheme changes, by Deadline 9 on 26 April 2016. As there is a degree of interrelationship between NMC1 and NMC2 in practical terms (i.e. highway design, traffic regulation measures, landownership), the additional work that would subsequently be involved in unravelling that interrelationship, to produce separate ‘tranches’ of consequentially amended application documentation pursuant to two separate Procedural Decisions, would be excessive and also potentially abortive, should the HCA’s consent be granted and NMC1 be accepted subsequently by way of a delayed, second Procedural Decision. Two tranches would evidently also result in a very large number of additional submissions to the Examination, to the burden of the ExA and other interested parties.

3.6 For the reasons set out above, the Applicant's preferences, on balance, would be in the order set out below, with (in the Applicant's view) Option 1 being the optimum way forward and Option 3 being the least favourable:

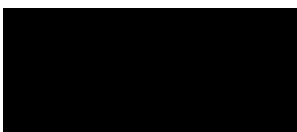
3.6.1 **Option 1** – NMC1 to be accepted along with all of the other NMCs in a single Procedural Decision issued on 15 April 2019, with consequentially amended application documentation covering all of the NMCs to be submitted by the Applicant to the ExA at Deadline 9 (26 April 2019), on the basis that if the HCA's consent was not granted by Deadline 11 (on 4 June 2019), the Applicant would, by the close of the Examination (on 5 June 2019), be required to submit further consequentially amended application documentation stripping out NMC1 and retaining only NMCs 2 to 8. This is the Applicant's preferred option, notwithstanding the additional work that could potentially be required if the HCA's consent was ultimately not forthcoming. The Applicant proposes this option as a measure of its confidence that the HCA's consent will ultimately be forthcoming.

3.6.2 **Option 2** – for the ExA's Procedural Decision on all of the NMCs to be delayed, hopefully only for a short period, thereby allowing extra time for the HCA's consent to NMC1 to be granted in the context of the Applicant's recent offer of accelerated land acquisition by agreement. This option is favoured because it would allow the Applicant to prepare one single 'round' of consequentially amended application documentation. The length of any such delay to the ExA's issuing of the Procedural Decision beyond 15 April 2019 is, clearly, a matter for the ExA; however, the Applicant would respectfully suggest that the position could be reconsidered at the time of the Compulsory Acquisition Hearing on 14 May 2019, with a Procedural Decision being issued shortly thereafter, and consequentially amended application documentation being submitted at Deadline 10 (24 May 2019).

3.6.3 **Option 3** – (not preferred) – two Procedural Decisions splitting the NMCs, with NMC2 to NMC8 being the subject of the Procedural Decision due to be issued on 15 April 2019, and NMC1 being deferred for decision at a later date (to be confirmed by the ExA). The reasons why this option is not preferred are set out above and are therefore not repeated here.

If you have any questions on any of these matters, please do not hesitate to contact me.

Yours sincerely



Jon Barnard  
Project Manager, Lake Lothing Third Crossing