

Our Ref: CAG/JBG/322701.0002
Your Ref:
Date: 4 June 2019

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Dear Sirs

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

We act for PFK Ling Limited (“Lings”).

On behalf of our client we have made a number of written and oral submissions throughout the Examination. In the interests of brevity, Lings does not intend to simply repeat submissions already made.

However, we must bring to the Examiners’ attention that throughout the Examination process Lings have been seeking an agreement with Suffolk County Council (“SCC”) which will secure the future of the Lings business in this location. Unfortunately we have to alert the Examiners that an agreement has not been reached putting at risk the future of the Lings operation from the Property.

SCC has not properly discharged the duties and expectations created by the “Guidance on Compulsory purchase process and The Crichel Down Rules” (“the Guidance”) to use compulsory purchase powers as a last resort. Furthermore, the impact on the Lings business, undermines the very purpose of the Scheme which is stated to deliver economic benefits to the local area. Our client continues to object to the Scheme.

The Guidance confirms that *“compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects”* and that *“the confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement.”* (Section 2 of the General Overview of the Guidance).

Our client has sought to work openly and collaboratively with SCC. Our client has openly provided information required by SCC, attended meetings and allowed investigative works to be undertaken within its site. Our client had been so concerned about the impact the Scheme would have on its business that it initially sought to relocate its business within Lowestoft. Contrary to the Guidance, SCC was not *“prepared to engage constructively with [Lings] about relocation issues”* principally as the cost of relocation was significant” (Section 3 of the general Overview of the Guidance) with the result that our client had to abandon its relocation plans and seek alternative arrangements to stay on site.

At the Issue Specific Hearings on 15 January 2019, our client made an alternative proposal to SCC regarding the structure of a deal which would allow our client to remain on site while avoiding the need for any land to be compulsorily acquired. This structure has been pursued between the parties

26927399.V1 Ltr to the Planning Inspectorate - final draft
322701.0002 04/06/2019

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for the past 4 and half months, however, at no time has SCC been willing to confirm detailed heads of terms that would be acceptable to it such that the deal could not be progressed nor was the proposal dismissed so that other structures could be focussed on. It has felt to our client that SCC has simply been running down time and it is interesting to note that SCC confirmed that they would need to seek additional funding outside that of the DCO to complete such an agreement, despite it being on a par with SCC's own estimates of compensation if the business has to close

At a meeting on 30 April 2019, SCC proposed an alternative structure for a deal which would avoid the need for land to be compulsorily acquired. While less favourable to our client, having been assured by SCC that this was a simple structure that could be agreed quickly, our client agreed to proceed on that basis and provided all the information necessary for an agreement to be reached. SCC failed to provide a proposed land acquisition figure until 31st of May. This figure was some distance from the sum proposed by our client and SCC provided no justification for why it did not accept our client's assessment. SCC simply stated that it would need to undertake further investigations and engage further specialists (a forensic accountant) despite having had the information it had requested for in excess of 4 weeks. SCC also refused an all parties meeting on 31 May 2019 where it was intended that an agreement would be finalised.

Despite our client's concerted efforts to find a way for the business to continue to operate from its current site, SCC handling of negotiations, characterised by delay and obfuscation, has resulted in the clear failure to reach an agreement before the close of the Examination despite it being the landowner's desire to do so.

Our client's objection has significantly focussed on the uncertainty surrounding the funding arrangements for the Scheme. Our client can now only assume that SCC has been unwilling to properly engage in negotiations for the acquisition of land as it simply does not have the funding in place to pay the land acquisition costs. Despite the lack of proper authorisation from SCC's Cabinet for an extended land acquisition budget, SCC has not used the past 6 months of the Examination duration to obtain authorisation to adequately compensate those whose land will be interfered with. Our client has repeatedly sought comfort that SCC can adequately fund compensation/land acquisition but no comfort or certainty has been provided. This view has been further compounded by comments made by SCC that further funding would need to be sought to reach a consensual agreement.

We have also reviewed the latest version of the Compulsory Acquisition Negotiations and Objections Tracker Revision 5 ("the Tracker"). Two matters within this latest revision are of particular concern to our client. Firstly, the tracker advises that "*an agreement is expected to be reached by or before the close of examination*". As of the end of last week, SCC had given no indication to our client that an agreement would be entered into before the close of the examination. In fact, SCC had refused the all parties meeting referred to above and advised that it needed to undertake further work. The second matter relates to SCC's general conduct. We had understood that negotiations between the parties were confidential. However, the Tracker now provides details of both the structure of the proposed agreement and the drafting of the documents. We had previously warned SCC, on 18 April 2019, of its conduct following its disclosure of the structure of the deal under negotiation in its response to the interest parties' representations at Deadline 7. We received the following assurance "*there is no intention for the actual details discussed or agreed between parties to be made known to the ExA or to be publicly disclosed and as such we do confirm that details of the negotiations between our respective clients will be kept confidential.*" It is not appropriate or acceptable for SCC to misrepresent the status of negotiations in the Tracker nor is it appropriate or acceptable to disclose details of confidential negotiations.

It is recognised by SCC in the June 2018 Cabinet minutes that there is a risk that a Material Detriment claim will be made by Lings. By not providing certainty to Lings over the future of the business in this

location SCC are greatly increasing this risk. The result of a Material Detriment claim will be significantly increased compensation costs as well as the potential loss of a local business.

It is worth reiterating at this point the benefits Lings as a business brings to the local economy that the SCC Scheme purports to assist:

- A Lowestoft business for 50+ years.
- Significant rate payer.
- Employer supporting local schools & college with apprentice scheme.
- Support many other smaller local businesses in our supply chain.
- Community support - always working closely with Events, Charity fund raisers, Sporting teams etc.
- Road safety awareness courses held on and off site.
- Support local Yacht club / Mariner.
- Members of local chamber of commerce.
- Hold many events in showroom involving other local business & Schools, College, University ie. Honda Robotics for engineering students, Business breakfast etc.

Given SCC's handling of the matter, we do not consider that the Examiners should recommend that the CPO is confirmed until certainty can be given for the future of the Lings business in Lowestoft.

Yours faithfully



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