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Dear Dean

**PLANNING ACT 2008 – SECTION 51  
APPLICATION BY HIGHWAYS ENGLAND FOR AN ORDER GRANTING DEVELOPMENT CONSENT  
FOR THE PROPOSED A19 DOWNHILL LANE JUNCTION SCHEME (“THE SCHEME”)  
APPLICATION REFERENCE: TR010024**

Further to the Examining Authority’s Rule 6 letter dated 12 July 2019, we enclose a number of additional documents in relation to the above application. This letter sets out a short description of the documents provided, along with our approach in producing them, where relevant. We also enclose an updated “Application Document Tracker” (TR010024/APP/1.4) including the latest versions of the documents listed below.

**Environmental Statement Addendum assessing the environmental effects of a potential variation to NMU provision**

We enclose an Environmental Statement Addendum (ESA) (TR010024/APP/6.11). This assesses the environmental effects of delivering a non-motorised user (**NMU**) solution that is integrated with the proposed IAMP TWO development, provided that development has been consented, and its proposed NMU facilities crossing the A19 and connecting to A1290 (the “**integrated NMU solution**”) have been constructed and are open to the public. Highways England is introducing this information at the earliest opportunity following IAMP LLPs recent statutory consultation on their proposals for IAMP TWO.

In summary, the ESA concludes that though an integrated NMU solution does entail localised effects, these would not be significant nor materially change the likely significant environmental effects conclusions of the Scheme as assessed in the Environmental Statement (**ES**) (TR010024/APP/6.1). The integrated NMU solution is overall an improvement compared to the existing NMU provision at the junction. In addition, the proposal would avoid the provision of duplicate NMU facilities in close proximity and would save public money.

The legal mechanism by which the integrated NMU solution would be delivered is now contained in the amended draft Development Consent Order (**dDCO**) and accompanying Explanatory Memorandum (**EM**) (see further below). Highways England has taken the opportunity to introduce this information at this stage so that scope to deliver the integrated NMU solution is embedded within the dDCO and ES.

Highways England does not consider this proposal to constitute a material change to the application. To assist the Examining Authority, we set out below our submissions on how this additional information can be dealt with procedurally.

We refer the Examining Authority to the Planning Inspectorate’s “Advice note sixteen: How to request a change which may be material” (**Advice Note Sixteen**)<sup>1</sup>. This note makes clear at sub-paragraph 2.2 that the submission of new or revised information before the Examination starts or during the Examination does not necessarily constitute a request to materially change an application, with the submission of environmental information specifically listed as an example. Advice Note Sixteen also provides clarification as to when a change should be considered material, as follows:

*“There is no legal definition of ‘material’ but the tests to apply are whether the change is substantial or whether the development now being proposed is not in substance that which was originally applied for....Whether a proposed change falls within either of these categories is a question of planning judgment which may be based on criteria including, for example, whether the change would generate a new or different likely significant environmental effect(s). Similarly, whether (and if so the extent to which) a change request involves an extension to the Order land, particularly where this would require additional Compulsory Acquisition powers eg for new plots of land and/ or interests (Paragraph 2.1).”*

Applying the considerations outlined in paragraph 2.1 of Advice Note Sixteen, in our view the submission of the additional information enclosed with this letter relating to the potential integrated NMU route does not constitute a request to materially change the application. As noted above, the integrated NMU route would overall be an improvement compared to the existing NMU provision at the junction, and would not significantly change the likely significant environmental effects of the Scheme as presented in the ES. Moreover, the provision of the integrated NMU route would not involve either an extension to the Order land or additional compulsory acquisition powers. Other than the dDCO and EM, no changes are required to the application documents.

In light of the above, we submit that no interested parties are prejudiced by the potential change to the dDCO or the submission of the new environmental information. Highways England has engaged with the Local Access Forum (representing local NMUs), South Tyneside Council, Sunderland City Council, Nissan and IAMP LLP on the potential integrated NMU solution, and it has received a positive response from all of these bodies.

We would invite the Examining Authority, having considered the documents, to accept this information using its discretion under section 87(1) of the Planning Act 2008. We will be happy to discuss this matter in further detail at the Preliminary Meeting.

### **Amended draft Development Consent Order (DCO) and Explanatory Memorandum**

We enclose an updated dDCO (TR010024/APP/3.1(2)) and EM (TR010024/APP/3.2(2)). The changes to the dDCO are set out and explained in the table at Appendix 1 to this letter.

The amended dDCO now makes provision within Requirement 3 for a potential change to the design of the Scheme to allow for the integrated NMU solution. This alternative provision for NMUs would only be permitted if the IAMP TWO scheme is consented and the relevant NMU facilities proposed under the IAMP TWO scheme are constructed and open to the public. In these circumstances, Highways England would be permitted to omit from the Scheme those parts of its “standalone” NMU solution (as specified in Requirement 3, along with associated definitions in Requirement 1) which would otherwise duplicate the NMU provision proposed as part of the IAMP TWO development. This includes non-provision of Highways England’s proposed NMU crossing of the A19 (as provided for in the application documents), on the basis

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<sup>1</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/07/Advice-note-16.pdf>

that the nearby Washington Road Bridge proposed as part of the IAMP TWO development will make provision for NMUs wishing to cross the A19.

The rationale for this approach is that an integrated NMU solution would be in the public interest, if it is possible to deliver it, given that it would avoid the provision of duplicate NMU facilities in close proximity, and would save public money. Highways England's submission is that it is therefore appropriate that Requirement 3 permits Highways England to vary its NMU provision such that it forms part of an integrated NMU solution with IAMP TWO, as an alternative to the NMU route in the preliminary scheme design.

We have also provided an updated Validation Report following this update of the dDCO (TR010024/APP/3.3(1)).

### **Interrelationship with Testo's Junction, A1 Birtley to Coalhouse Scheme and International Advanced Manufacturing Plant (IAMP)**

We enclose an updated version of this document which sets out the interrelationship between the Scheme and the Testo's Junction, A1 Birtley to Coalhouse and IAMP schemes (TR010024/APP/7.3(1)). This has been updated to include some additional information on potential tie-ins between the Scheme and the IAMP TWO scheme, and to provide a number of additional appendices illustrating the interaction between the two schemes.

### **Application Document Errata**

We have become aware of very minor cross-referencing errors in the Transport Assessment (TR10024/APP/7.1) and the appendices to Environmental Statement so, for clarity and in order to assist the Examining Authority, we have provided an errata (TR10024/APP/7.6).

### **Clarification to Town End Farm Partnership Relevant Representation**

In order to further assist the Examining Authority, we enclose a letter clarifying the status of the relevant representation submitted by Town End Farm Partnership. We have obtained consent from Town End Farm Partnership that this letter can be shared with the Planning Inspectorate.

Yours sincerely,

Helen Apps



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## APPENDIX 1

### Changes made to draft DCO

ARTICLE	EXPLANATION FOR CHANGE
Amended title of dDCO	Deletion of “Improvement” – this is to reflect recent Highways England practice.
Endnotes	Endnotes updated to reflect the drafting of the A19/A184 Testo’s Junction Alteration Development Consent Order ( <b>Testo’s Order</b> ).
Art 6(b)	Amended to reflect the drafting of the Testo’s Order.
Art 11(3)	Amended to correct a typographical error.
Art 17(8)(a)	As the Homes and Communities Agency has been replaced with Homes England, the article has been amended to refer to Homes England
Art 22(1)(b)	Amended to insert a description of the section of the 1981 Act referred to.
Art 29(1)	Amended to correct a typographical error.
Schedule 2	Definitions of “IAMP TWO” and “the specified non-motorised user provision” added.
Schedule 2, Requirement 3	Requirement 3 has been amended to permit a potential change to the design of the Scheme so that it can form part of an integrated NMU solution with IAMP TWO. This would involve omitting a specified part of the NMU solution that was contained in Highway’s England application. This alternative design would only be permitted if the IAMP TWO scheme is consented and the NMU facilities proposed under the IAMP TWO scheme are constructed and open for public use.
Schedule 2, Requirement 4	Deletion of construction activities which are not applicable to the Scheme, and amendments to reflect the Testo’s Order.
Schedule 2, Requirement 8(2)	Amended in line with the wording of Art 6(b).
Schedule 2, Para 13(3)(c)	Amended in line with the wording of Art 6(b).