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To: All Interested Parties

Your Ref:

Our Ref: TR010027

Date: 12 November 2019

Dear Sir/ Madam

The Planning Act 2008 (as amended) Section 89 and The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 8(3), Rule 9 and Rule 17

Application by Highways England for an Order Granting Development Consent for the M42 Junction 6 Improvement

Procedural Decisions, Amended Examination Timetable and Request for further information

Proposed change to the original application

We are writing to inform you of procedural decisions made by the Examining Authority (ExA) regarding the Applicant's proposed changes to the Development Consent Order (DCO) application.

The Applicant notified the ExA of its intention to request what it considered to be a non-material change on 26 July 2019 and subsequently submitted this request in its letter dated 9 August 2019 [AS-027]. Following the hearings held on 21 and 22 August 2019 a programme of consultation was arranged and the ExA made a procedural decision [PD-010] that a report on that consultation by the Applicant should be submitted by Deadline 6 (Friday 11 October 2019) together with further environmental appraisals to justify the initial assertion that 'the changes would not give rise to any materially new or materially different significant environmental effects to those reported in the Environmental Statement'.

The proposed changes, and the reasons for them, entail:

- Change 1: Proposed change to the southern extent of the limits of deviation (LoD) for Work No. 63 (Severn Trent Aqueduct). The change is to allow greater ease of maintenance for Severn Trent Water once the diverted aqueduct is operational. The southern extent of the LoD for Work No. 63 is to be moved further south from parcel 4/4w into parcel 4/4k within the DCO boundary. Both plots are in the same ownership and both are listed in the Book of Reference as 'land to be used temporarily and rights to be acquired permanently'.

- Change 2: Attenuation Tank Relocation (Work No. 34). The change is to accommodate the relocation of a highway drainage attenuation tank (Work No. 34) from the north western quadrant of Barber's Coppice Roundabout to the south western quadrant, both locations being wholly within the DCO boundary and within parcels 2/10j and part of 2/71. The relocation is to allow a maintenance vehicle to pull into a 'service' lay-by as traffic slows to enter the roundabout rather than as it accelerates on exit, thereby reducing potential road hazards.
- Change 3: Parcels of land to be removed from the Order Limits. The removal of five land parcels from the Order, either not required for the reconfiguration of the pitches at the WGAA or for the operation or maintenance of the highway; the plots are 3/1d, 3/45c, 2/32c, 2/36 and 2/32a.

Conclusion

The ExA has reviewed the information provided and assessed the Applicant's request in line with paragraphs 109 to 115 of DCLG Guidance 'Planning Act 2008: Examination of Applications for Development Consent' and the Planning Inspectorate's Advice Note 16: How to request a change which may be material.

The Consultation Statement [REP6-009] and the Supplementary Environmental Appraisal Report [REP6-013] address the issues raised by proposed changes 1 and 2 above. Documents submitted at Deadline 8 [particularly REP8-006] provide more information on proposed Change 3.

The ExA notes that the identified changes are within the red line boundary for the scheme as originally applied for and propose either minor modifications to works already proposed or the removal of a small number of land parcels from the order limits.

Change 1 entails Work No.63 being potentially closer to properties on the north side of Church Lane. However, it remains beyond a buffer and largely within the confines of the Main Site Compound. Once completed, the works result in an underground aqueduct not materially different in function or effect to that originally proposed. The Supplementary Environmental Appraisal Report (SEAR) identifies that no new or different significant environmental effect is likely to ensue from Change 1 and no such effect has been identified in Examination.

Change 2 entails the installation of a similar drainage attenuation tank in a similar position but positioned slightly further from the nearest residential property (Four Winds) and in a slightly safer position. The SEAR identifies that no new or different significant environmental effect is likely to ensue from Change 2 and no such effect has been identified in Examination.

Change 3 removes land proposed to be subject to compulsory acquisition (CA) in the original application but which the Applicant considers is now no longer required by the scheme. Removal of land that is no longer required is necessary to meet the statutory test for CA in PA2008 s122, namely that the land is required for the development proposed in the DCO, or to facilitate that development.

Procedural decisions

Having considered all relevant matters arising from oral submissions at hearings, Written Representations and responses to questions, the ExA agrees that Changes 1, 2 and 3 are non-material changes to the application. The ExA agrees to accept them as the basis on which to make its recommendation to the SoS. Given the scope and duration of the consultation process (29 August 2019 to 26 September 2019) together with the evidence set out in the Consultation Statement and the Supplementary Environmental Appraisal Report, the ExA is satisfied that no further consultation is required.

Request for further information

To assist the Examination, the Applicant should submit updated versions of the documents that are affected by the change for Deadline 9. We have made a procedural decision to amend the Examination Timetable to accommodate this. Subsequently, Deadline 10 provides opportunities for Interested Parties and/ or Affected Persons to respond. Responses are only sought as to the general conformity or otherwise of the updated documents with the proposed change request, rather than the proposed changes, for which consultation has already taken place. On this basis, we consider that the timescale given to respond is sufficient.

Accordingly, items 27 and 28 of the Examination Timetable provided at Annex A to the ExA's Rule 8(3) letter of 28 October 2019 are superseded as shown overleaf.

Examination Timetable: as updated on 12 November 2019

Item	Matters	Due Dates
1 - 26	Previous Items Items 1 – 26 of the approved Examination Timetable published on 21 May 2019 and subsequently amended 28 October 2019, have been delivered and are not repeated here.	
27	Deadline 9 (D9) Deadline for receipt of: <ul style="list-style-type: none">• Comments on the Panel’s preferred dDCO or dDCO commentary• Final draft DCO to be submitted by the Applicant in the statutory instrument (SI) template with the SI template validation report, together with a revised version of the Explanatory Memorandum• Responses to any further information requested by the Panel	Friday 15 November 2019
28	Deadline 10 (D10) Deadline for receipt of: <ul style="list-style-type: none">• Responses to any further information requested by the Panel (if required)• Comments on any additional information or submissions received by previous deadline	Wednesday 20 November 2019
29	The Panel is under a duty to complete the Examination of the application by the end of the period of 6 months beginning with the day after the close of the Preliminary Meeting	Thursday 21 November 2019

Yours faithfully

David Cullingford
Lead Member of the Panel