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Your Ref: HE551522-ATK-GEN-J10-RP-
ZM-000011

Our Ref: TR010030

Date: 5 December 2019

Dear Sir

Planning Act 2008 – Section 89

Application by Highways England for an Order Granting Development Consent for the M25 junction 10/A3 Wisley interchange

Notice by Applicant of intention to submit a request to make changes to the application

Thank you for your letters dated 4 November 2019 and 3 December 2019 giving notice of Highways England's intention to submit a request to make changes to the application. These have been published on the National Infrastructure Planning website here:

<http://infrastructure.planninginspectorate.gov.uk/document/TR010030-000345>

<http://infrastructure.planninginspectorate.gov.uk/document/TR010030-000455>

Your letter of 4 November 2019 states that its purpose is to inform the Examining Authority (ExA) of the Applicant's intention to request "*a number of proposed changes to the scheme which may include a request for a material change (the Proposed Changes)*". This satisfies Step 1 of the recommended procedure in the Planning Inspectorate's 'Advice Note 16: How to request a change that might be material' (AN16).

You have outlined seven proposed changes to the application and these are described in your letter of 4 November 2019. You go on to state that "*non-statutory consultation will be carried out between December 2019 and January 2020*" and that it is your intention to make a formal request to the Examining Authority (ExA) to accept the Proposed Changes at the beginning of February 2020.

Materiality of the Proposed Changes and Information required

As set out in the letter of 4 November 2019, the Applicant considers that Changes 1, 2, 4, 5, 6 and 7 are non-material changes, and that Change 3 may constitute a material change. Based on your initial assessment and the summary information you have provided, the ExA is minded to concur that Change 3 would potentially be material.

The ExA notes your view in regard to Change 4 (amendments to construction working hours specified in Requirement 3) that you consider the working hours for the longer period on Saturdays has been assessed in the Environmental Statement (ES). The Applicant will need to provide evidence to confirm that this has been fully assessed in its submission. That is because in the noise chapter of the ES [APP-051] very few references have been made to working on Saturdays and it is unclear whether the assessment that has been made for 'typical working day' includes Saturdays. On the basis of the evidence currently available to the ExA it appears that Change 4 is capable of being material, and so would benefit from any consultation undertaken by the Applicant proceeding on the basis that it is.

The ExA also notes that Changes 2 and 5 will require "*minor adjustments to the red line boundary although it is not anticipated that they will involve any newly-affected parties*". If the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regulations) are engaged or new likely significant effects are identified then that may lead the ExA to conclude that the changes when taken together would be material. Furthermore, if landowner consent is not received and the CA Regulations are engaged then the ExA will need to have the information prescribed by Regulation 5 of the CA Regulations and confirmation that the procedural requirements of the CA Regulations can be met within the remainder of the statutory six month Examination timetable.

The Applicant indicates that a formalised change request will be submitted in February 2020. If the ExA decides to accept the Proposed Changes into the Examination (irrespective of whether or not they are material) all Interested Parties will have an opportunity to make representations on the changed application in writing or orally at hearings as the Examination progresses. The Examination timetable has been set out in Annex A of the ExA's Rule 8 letter, dated 20 November 2019 (as amended on 5 December 2019). It is therefore imperative that the Applicant has regard to the published Examination timetable and formally submits its Proposed Changes, and any associated amendments/updates to plans or other Examination documents such as the ES, to allow sufficient time for all parties to properly consider the Proposed Changes and make representations concerning them.

It is ultimately for the ExA to decide whether a proposed change is material and the ExA does not at this stage have sufficient information to reach a conclusive view as to materiality. However, from the information that you have presented thus far, the ExA is minded to be of the view that your proposed Change 3 (removal of part of the proposed amendments to the A245 eastbound between the junction with Seven Hills Road and the Painshill interchange) and Change 4 (extended working hours on Saturdays) would be likely to constitute a material change. Furthermore, it is possible that the other Proposed Changes, either alone or when considered together, might also represent a material change.

The Applicant should have regard to Figures 1 and 3 of AN16 which set out how to make a request to make a material change to an accepted application and the

information to include in a request to make a material change to an application after it has been accepted for examination.

Consultation

The ExA is aware of your stated intention to carry out non-statutory consultation on the Proposed Changes with affected parties, including local authorities, other statutory consultees and persons with an interest in the land affected by the Proposed Changes. In your letter of 4 November 2019, you state that this non-statutory consultation will be carried out between December 2019 and January 2020. In addition, in your letter of 3 December 2019 you subsequently refer to a targeted consultation from 6 January to 4 February 2020. Given the potential effects of Change 4 (extended working hours on Saturdays) on both local residents and visitors to the area (for example at RHS Wisley and Painshill Park), the ExA suggests that the Applicant may wish to consider how appropriate consultation on this matter would be covered by the targeted consultation approach as set out in your letter of 3 December 2019.

The ExA considers that your consultation must engage all persons identified in the Planning Act under sections 42(a) to (d) who would be affected by the Proposed Changes. This should include any 'section 42' persons not originally consulted on the application but who may now be affected by the Proposed Changes. You should give a minimum of 28 days for responses to your consultation, and newspaper and site notices should be posted.

When submitting the change request, it is recommended that you submit a statement encompassing a non-statutory consultation report setting out the detail and methodology of the undertaken consultation.

Next steps

The Applicant is asked to ensure that the change request that is intended to be submitted in February 2020, by Deadline 4 (**11 February 2020**) at the latest, responds fully to the points made above and contains sufficient information to enable the ExA to prepare further questions, if necessary.

If you have any questions about any of the matters raised in this correspondence, please contact the Case Team using the details provided in this letter.

Yours faithfully

Gavin Jones

Gavin Jones
Lead Member of the Examining Authority

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