

The Planning Inspectorate
Temple Quay House
Bristol
BS1 6PN

Project ref: M25 junction 10/A3 Wisley
interchange improvement – TR010030

Our ref: WA/2019/126852/04-L01

Your ref: 20023020

Date: 28 January 2020

Dear Sir/Madam,

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

Please find enclosed our comments for 'deadline 3' submissions for the M25 Junction 10/A3 Wisley interchange improvement project Development Consent Order application. I apologise that we were not able to provide a substantive response to the previous 'deadline 2' and for any inconvenience this has caused. We have provided answers to the Examining Authority's Written Questions expected at the previous deadline as part of this response (see Appendix B).

The Role of the Environment Agency

The Environment Agency has a responsibility for protecting and improving the Environment as well as contributing to sustainable development.

Our work helps to support a greener economy through protecting and improving the natural environment for beneficial uses, working with business to reduce waste and save money, and helping to ensure that the UK economy is ready to cope with climate change. We will facilitate, as appropriate, the development of low carbon sources of energy ensuring people and the environment are properly protected.

We have three main roles:

We are an **environmental regulator** – we take a risk-based approach and target our effort to maintain and improve Environmental standards and to minimize unnecessary burdens on business. We issue a range of permits and consents.

We are an **environmental operator** – we are a national organization that operates locally. We work with people and communities across England to protect and improve the environment in an integrated way. We provide a vital incident response capability.

We are an **environmental advisor** – we compile and assess the best available evidence and use this to report on the state of the environment. We use our own monitoring information and that of others to inform this activity. We provide technical information and advice to national and local governments to support their roles in policy and decision-making.

One of specific functions is as a Flood Risk Management Authority. We have a general supervisory duty relating to specific flood risk management matters in respect of flood risk arising from Main Rivers or the sea.

Incorporation of 'deadline 2' comments

As stated in our e-mail to you dated 18 December 2019, we were unable to provide a substantive response for deadline 2 (18 December) due to a major flooding incident response. We are mindful

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that you requested a response for deadline 2 in advance of the deadline 3 date, but unfortunately we have been unable to provide a response before this date. We apologise again for any inconvenience that this has caused, although we are now satisfied that the majority of our issues have been resolved since we provided our deadline 1 comments on 26 November 2019.

We have therefore incorporated any comments that we may have had for deadline 2 into this response. This includes our responses to the Examining Authority's first written questions (see Appendix B of this letter).

Ongoing engagement with the applicant

Our ongoing engagement with the applicant is listed in the Statement of Common Ground (SoCG) that we have produced with the applicant, and that we understand the applicant will submit at this deadline. You will see that the majority of matters are now agreed.

We will continue to engage with the applicant on the outstanding matters and will continue to liaise with the applicant to update the SoCG to reflect our latest position. We are no longer updating the 'comments log' that we submitted previously, as the matters have now been addressed through other written communications.

Please do not hesitate to contact me if you require any further information. We look forward to continuing to work with the applicant to resolve any ongoing matters contained within our written representation, and to ensure the best environmental outcome for this project.

Yours faithfully,

Clark Gordon
Strategic Planning Specialist
Environment Agency, Thames area

Att Appendix A – Written Representations on behalf of the Environment Agency

Appendix B – Environment Agency responses to ExA (first) Written Questions

Map showing interaction between Park Farm Barn Replacement Land and Sanway Flood Alleviation Scheme (attached to response e-mail)

Appendix A

Written Representations on behalf of the Environment Agency

1.0 Summary of outstanding issues

- 1.1 Since we sent our previous written representation on 26 November 2019 (REP1-013), we have engaged with the applicant to address the queries and issues that we raised.
- 1.2 We are now satisfied that the vast majority of our issues have been adequately addressed by the applicant. This is reflected in the Statement of Common Ground (SoCG) that we have prepared with the applicant (to be submitted by the applicant at this deadline).
- 1.3 We are satisfied with the applicant's justification for not updating Requirement 10 (Bolder Mere) and we have indicated to the applicant that we are happy for Requirement 10 to remain in its current form.
- 1.4 We responded to the applicant's non-statutory consultation on changes to the scheme earlier this month with no comments. None of the proposed scheme changes affect any matters within our remit.
- 1.5 We now consider there to be four outstanding issues for matters within our remit. Some of these are new issues identified through the examination process. We will address these issues in turn:

2.0 Updates to Flood Risk Assessment – climate change allowances

- 2.1 We note that applicant's comments that we "*agree with the conclusions*" of the Flood Risk Assessment (FRA) submitted with the application, and that they do not feel that updates to the FRA are necessary. We do not wholly agree with this.
- 2.2 We maintain that the applicant should provide further information to demonstrate that their use of Flood Zone 2 as a proxy for a 1 in 100 plus climate change flood extent is appropriate for this development.
- 2.3 We acknowledge that it is possible that a 1 in 100 plus 70% allowance for climate change flood extent would not extend beyond the boundary of Flood Zone 2, but this has not been demonstrated by the applicant. There remains an inherent risk that a climate change extent could be a wider extent than Flood Zone 2 and therefore has not been appropriately assessed in the FRA.
- 2.4 We are in the process of arranging a telephone call between our flood risk officer and the applicant's flood risk consultants to discuss this matter further and agree a way forward. We therefore hope to have an update on this matter for the next deadline.
- 2.5 We consider this the only outstanding (fluvial) flood risk issue.

3.0 Park Farm Barn Replacement Land and Sanway Flood Alleviation Scheme

- 3.1 We note that an area of land identified by the applicant for replacement common land (a portion of the Park Barn Farm Replacement Land parcel) has also been identified by us as an area for floodplain compensation for the proposed Sanway Flood Alleviation Scheme (FAS). I have attached with this response a map showing the area in question.
- 3.2 On 28 January, we held a call with Natural England to discuss the requirements for this land. We understand that the principle issue for the replacement land is open access for

the public. We also understand that there may be appropriate habitat creation on the land as part of the long-term management, such as tree planting.

- 3.3 Our proposals are for the land to be used for floodplain compensation to compensate for floodplain lost elsewhere as part of the Sanway FAS scheme. This would involve an element of land lowering (to enable land to more readily flood) and potentially the creation of some wetland habitats (e.g. ponds).
- 3.4 Following today's call with Natural England, we do not anticipate that there are any significant issues resulting from the 'dual use' of the land. Indeed, as part of our considerations for the wider Sanway FAS scheme, we are considering how we can improve public access in the area. The land would not be flooded all the time and public access could be maintained, albeit access would be restricted to some degree during flooding events.
- 3.5 We believe that there may be construction and/or management synergies between us and the land owner/manager, as both the DCO scheme and our FAS scheme are likely to be constructed at similar times. The Project Managers for our flood scheme are now going to make contact with Highways England to discuss this matter further.
- 3.6 We will review the applicant's intentions for the land, identified in the *Statement of Reasons Appendix C: Common land and open space report (Revision 1) (AS-005)* and confirm at the next deadline whether this matter is now agreed.

4.0 Water Impoundment Licence

- 4.1 The applicant has been in direct contact with a Water Resources Senior Permitting Officer, working in our National Permitting Service team to discuss potential Water Impoundment Licence requirements for works to Boldermere and/or the culvert running under the A3 (close to Boldermere). This is a separate process to planning and we are unable to agree to disapply Water Impoundment Licences under the Water Resources Act (1991) as part of the DCO.
- 4.2 Our National Permitting Service have advised that any decision on whether a Water Impoundment Licence will be required will depend on the final, detailed designs of relevant structures. Therefore at this time we are unable to confirm whether a Licence is required, or whether a Licence would be granted if one is required. The process for determining a Licence can take 4-6 months from the date of application.

5.0 Draft Development Consent Order – Article 19

- 5.1 We have recently requested some additional wording be added to Article 19 (Discharge of water) of the Development Consent Order (DCO). This request is reflected in our SoCG with the applicant (matter 3.7.11).
- 5.2 We have requested an additional paragraph be included in Article 19 to clarify that nothing within the article overrides the requirement for an Environmental Permit under the Environmental Permitting (England and Wales) Regulations 2016.
- 5.3 As part of the SoCG, the applicant has proposed some wording to be included in Article 19. We confirm that the proposed wording is acceptable to us. Therefore, assuming that the wording is included in the final version of the DCO, we are satisfied that this matter will be agreed.

Appendix B

Environment Agency responses to Examining Authority's first written questions (ExQ1)

1.0 Questions from the Examining Authority (ExA) to the Environment Agency (EA)

1.1 **Question 1.4.17** – *“Please provide an update on the progress of discussions with regards to the proposed detail of mitigation measures associated with effects on Stratford Brook and Bolder Mere.”*

1.1.1 We agree with the mitigation measures that the applicant has proposed for effects on Stratford Brook and Bolder Mere and consider that these are adequately secured within the DCO documents, with the exception of the commuted sum payment for Stratford Brook mitigations – further details of which are provided in section 6 of Appendix A of this response.

1.2 **Question 1.6.1** – *“Are you satisfied with the surface water mitigation measures (attenuation ponds and ditches) that are discussed ES Chapter 8 [APP-053] and do you agree with the conclusions drawn by the Applicant in regard to the residual effects on surface water and groundwater?”*

1.2.1 Please be advised that surface water drainage matters are no longer within the remit of the EA (for flood risk), so we will leave any comments on these matters to the relevant Lead Local Flood Authority/ies. Our only concern regarding surface water drainage relates to water quality – in particular water quality impacts on Bolder Mere.

1.2.2 The applicant has advised us that their intention is to re-route road drainage away from Bolder Mere and into an adjoining stream, but that this is subject to further detailed drainage surveys being undertaken. We fully support the approach to re-route road drainage away from direct discharge into Boldermere. We understand that even if the applicant is unable to re-route the road drainage, it may be possible to add additional water quality improvement measures to the existing system, thereby providing a betterment over the existing situation.

1.2.3 Ultimately, we agree with the applicant's assertion in the WFD Assessment (APP-045) that road drainage is not a factor influencing the WFD status of the lake, so even if the road drainage could not be re-routed it would not impact the WFD status of the lake. However, we would still strongly encourage the applicant to re-route the road drainage away from Bolder Mere to improve water quality. We feel that this matter has been sufficiently addressed within the DCO documents.

1.2.4 In relation to the second part of your question, we agree with the applicant's conclusions regarding residual effects on surface water and groundwater for those matters within our remit.

1.3 **Question 1.6.5** – *“In relation to paragraph 2.4 of your RR [RR-011] please explain why you consider the submitted Flood Risk Assessment (FRA) [APP-046] has used ‘unclear terminology in places’ and includes ‘a number of assumptions made without supporting evidence’.”*

1.3.1 As noted in our Written Representation in Appendix A, the only outstanding concern that we have with the FRA relates to the use of Flood Zone 2 as a proxy for a ‘with climate change’ flood extent.

- 1.3.2 Other matters referred to in our Relevant Reps response (RR-011) have been satisfactorily addressed by the applicant in further written communications and a meeting we held with the applicant in October 2019. We acknowledge that whilst the level of detail in the FRA is in some cases less than we would usually seek, the applicant has largely provided sufficient information based on the current level of detailed design of the scheme. We are also satisfied that we will be receiving further details via the Requirements and Protective Provisions for works on Stratford Brook.
- 1.3.3 In summary for our outstanding issue, the applicant has used the extent of Flood Zone 2 (as shown on the Flood Map for Planning: <https://flood-map-for-planning.service.gov.uk/>) as a 'proxy' for the extent of a 1 in 100 plus 70% allowance for climate change (the highest allowance in the Thames catchment). This assumes that the flood extent for a 'with climate change' event would not extend beyond the mapped Flood Zone 2, but no evidence has been provided to support this assumption.
- 1.3.4 We continue to request that the applicant provide further information to demonstrate that this approach is acceptable for this development. We are in the process of arranging a telephone call between us and the applicant's consultants to discuss this matter further.
- 1.4 **Question 1.6.6** – *“Further to the EA’s RR [RR-011], most particularly paragraph 2.4, please explain why the FRA [APP-046] has or has not made an appropriate allowance for climate change. If an inappropriate allowance for climate change has been made does this have any implications for the assessment of effects included in section 8.10 of Chapter 8 of the ES [APP-053]?”*
- 1.4.1 Since we sent our Relevant Reps response (RR-011), the applicant has confirmed through a meeting and written communications that an appropriate assessment of climate change allowances has been made in the FRA, notwithstanding the issue with using Flood Zone 2 as a proxy (see response above). We are therefore satisfied that the applicant has used the correct climate change allowances in the FRA, but this was not made clear in the assessment.
- 1.5 **Question 1.15.15** – *“In response to the RR made by EA [section 1 of RR-011] please advise as to what progress is being made to negotiate Protective Provisions that would be acceptable to the EA, given that the dDCO seeks to disapply the legislative requirement to apply to the EA for certain consents.”*
- 1.5.1 We have now agreed acceptable Protective Provisions with the applicant, and these have been included in the latest draft order submitted by the applicant.