

THE PROPOSED LOWER THAMES CROSSING DEVELOPMENT CONSENT ORDER

PLANNING INSPECTORATE REFERENCE: TR010032

REPRESENTATIONS ON BEHALF OF ST JOHN'S COLLEGE, CAMBRIDGE

23 FEBRUARY 2023

1. INTRODUCTION

1.1. These representations are submitted on behalf of St John's College Cambridge ("SJC"). Richard Max & Co LLP are the appointed solicitors to SJC in respect of the application by National Highways ("NH") for the Lower Thames Crossing Development Consent Order (attributed reference TR010032 by the Planning Inspectorate) ("the Proposed DCO"). We are authorised to submit these representations on SJC's behalf.

1.2. The Proposed DCO seeks authority for the compulsory acquisition of land and interests owned by SJC primarily for the creation of compensatory habitat for nitrogen deposition as a result of the scheme.

1.3. Whilst SJC does not oppose the Lower Thames Crossing project underlying the Proposed DCO, it strongly objects to the compulsory acquisition of its land and interests for the following reasons:

- The methodology employed by NH that led to the identification of the SJC land for compensatory habitat is flawed and unclear;
- All reasonable alternatives to the SJC land have not been considered;
- NH has failed to adequately engage and consult with SJC; and
- There is no compelling case in the public interest to justify the compulsory acquisition of the SJC land (and in any event it is unnecessary to acquire all the SJC land)

1.4. Against this background, SJC wishes to be confirmed as both an "Interested Party" and an "Affected Person" for the purpose of the examination into the Proposed DCO. It intends to make further representations during the course of the examination both in writing and orally.

2. SJC's LAND INTERESTS

2.1. SJC owns the freehold interest in a number of plots comprised within the Order Limits as set out in the Land Plans accompanying the Proposed DCO Application.

2.2. First, land known as part of Swillers' Farm, Shorne – which comprises plots 9-01, and 10-12 to 10-16 inclusive. The Statement of Reasons Annex A records that the permanent acquisition of these plots is required for "Implementation of environmental works to create a compensatory habitat for nitrogen deposition".

2.3. Secondly, land adjoining Orchard Lea Farm, Shorne – which comprises plots 10-01, 11-72 and 11-77.

2.4. The Statement of Reasons Annex A records that the permanent acquisition of plot 10-01 is likewise required for "Implementation of environmental works to create a compensatory habitat for nitrogen deposition".

2.5. The Statement of Reasons Annex A records that Plot 11-72 is require to “Implementation of environmental works to create a site for ancient woodland planting, including the construction of a new bat bard structure, overhead lines diversion works, including the removal of existing overhead lines and supports, and the establishment of a temporary utilities hub for facilitating utility works”

2.6. The Statement of Reasons Annex A records that Plot 11-77 us required for “Implementation of environmental mitigation works to create a site for ancient woodland planting”

2.7. In addition SJC owns land and interests over other land, which the Proposed DCO seeks temporary possession over and/or the grants of permanent rights. The grant of such rights and requirement for further temporary possession requires further discussion with and explanation by NH.

3. The Statutory Position

3.1. Pursuant to Section 122 of the Planning Act 2008 the Secretary of State may only authorise the compulsory acquisition of land under the Proposed DCO if they are satisfied that the two statutory conditions are met.

3.2. First, the land must be (a) required for the development to which the development consent relates, (b) required to facilitate or be incidental to that development; or (c) be replacement land which is given in exchange for order land pursuant to Section 131 or 132 of the Planning Act 2008.

3.3. Secondly, there must be a compelling case in the public interest for all the land to be acquired compulsorily.

3.4. The Secretary of State’s published guidance makes clear that they will, in turn, need to be satisfied that “the land to be acquired is no more than is reasonably required for the purposes of the development”. As part of this assessment the Secretary of State will need to be satisfied that all reasonable alternatives to compulsory acquisition have been considered.

4. The Justification for Compulsory Acquisition

4.1. The justification for the selection of SJC’s land is set out in Appendix 5.6 of the Environmental Statement (document 6.3) – the Project Air Quality Action Plan (the “PAQAP”).

4.2. SJC considers that the methodology employed in the PAQAP is not sufficiently robust to justify the compulsory acquisition of its land.

4.3. In particular:

- Inadequate consideration has been given to the acquisition of other 3rd party land available to acquire by way of private treaty – which would avoid the need for compulsory acquisition
- Inadequate consideration has been given to the availability of suitable land further from the project – which again may have avoided the need for compulsory acquisition
- Inadequate weighting has been attributed to the loss of Grade II agricultural land – at a time where food security is of increasing national importance.
- The justification for the selection of Plot 11-77 for the creation of a site for ancient woodland planting has not been fully explained

4.4. As a consequence of the flaws and lack of clarity in the methodology employed, the Secretary of State cannot be satisfied that all reasonable alternatives have been considered.

4.5. In turn, unless and until a properly robust site selection process has been undertaken the Secretary of State cannot be satisfied that, the SJC land is genuinely required for the development or to facilitate the development for the purpose of Section 122 of the Planning Act 2008.

4.6. Against this background, there is likewise no compelling case in the public interest to justify the compulsory acquisition of the SJC land and the interference with SJC's rights pursuant to the First Protocol of the European Convention for Human Rights.

5. Failure to Engage and Consult

5.1. The inclusion of the SJC land for environmental mitigation within the Proposed DCO was only brought forward at a very late stage in the process.

5.2. Only limited engagement that has taken place between NH and SJC to date. NH has not meaningfully considered the suggestions made by SJC and its advisors that alternative sites may be available to acquire by private treaty and which would not result in the loss of Grade II agricultural land.

6. Conclusion

6.1. For these reasons SJC objects to the Proposed DCO and wishes to expand upon these representations during the next stages of the examination, including at an oral hearing.