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National Highways
For information – to all Interested Parties

Your Ref: TR010032/EXAM/10.44

Our Ref: TR010032

Date: 02 November 2023

Dear Dr Wright,

Application by National Highways for an Order Granting Development Consent for the Lower Thames Crossing

Planning Act 2008 – Section 89; and the Infrastructure Planning (Examination Procedure) Rules 2010 – Rules 9 and 17

Procedural Decision¹ 42 addressing the Third Change Request Application

We are writing to inform you of the Procedural Decision made by the Examining Authority (ExA) following the third change request notification made by the Applicant on 01 August 2023 [[CR3-001](#)] and the subsequent formal submission dated 23 October 2023 (Examination Library references [CR3-002] to [CR3-013]).

The Applicant's Change Application Cover Letter [[CR3-002](#)] dated 23 October 2023 provides a summary in Section 1.1.2 of the changes proposed, and the steps it has taken since the ExA issued Procedural Decision 36 [Examination Library Ref. [PD-030](#)] on 30 August 2023 relating to the notification of changes.

Specifically, the changes are summarised as follows:

- a. EC03 – a minor increase to the Limits of Deviation in relation to a proposed Walking, Cycling and Horse Riding (WCH) structure over the A127 to prevent any conflict with proposals for a new employment park (Brentwood Enterprise Park).
- b. EC04 – the correction of the land use for plot 16-41 to reflect the requirement for the powers of permanent acquisition of subsoil and rights, and temporary possession of land at the surface of this plot. Currently, plot 16-41 is shown as

¹ All Procedural Decisions made by the ExA for the Lower Thames Crossing examination can be found in the Procedural Decisions Log [[PD-007](#)].

required for permanent acquisition of subsoil and rights only, so does not include temporary possession of land at the surface.

Section 3 sets out the Applicant's need for the changes and Section 4 of the same document identifies the documents that would require a consequential revision to the Application as a result of the changes, to be submitted at Deadline 7 (17 November 2023). These documents include, amongst others, 2.2 Land Plans, Volume B (sheets 1 to 20); 2.6 Works Plans Volume C Composite; 3.1 draft Development Consent Order; 4.2 Book of Reference; and 7.5 Design Principles.

The ExA has reviewed the information provided and assessed the Applicant's request in line with Paragraphs 109 to 115 of the Planning Act 2008 [Guidance](#) for Examination of Applications for Development Consent, and the Planning Inspectorate's [Advice Note 16](#) (AN16) and has reached the following conclusions.

ExA's Reasoning and Decision

The formal change request [CR3-002] to [CR3-013] follows from the Applicant's notice of intention to submit a request for changes [\[CR3-001\]](#) to which the ExA responded in a Procedural Decision on 30 August 2023 [\[PD-030\]](#).

The ExA's response of 30 August 2023 was based on the information provided by the Applicant in [\[CR3-001\]](#). The ExA considered that no pre-submission consultation was necessary for Change Request EC03 but that targeted consultation with affected landowners was required for Change Request EC04.

With regard to Change Request EC03, its purpose is to provide flexibility to the Limits of Deviation to avoid hindering the potential delivery of a new A127 overbridge associated with planning application 22/00402/FUL, which is as yet undetermined by Brentwood Borough Council. The ExA has no in-principle concern with the reasons for the Change Request and is satisfied that the change is not so substantial that it would extend beyond the original scope and assessment of the Project as to constitute a materially different project.

With regard to Change Request EC04, the ExA notes that non-statutory consultation was carried out the Applicant by letter to five persons with a possible legal interest in the relevant parcel of land (Plot 16-41) between 08 August 2023 – 04 September 2023. The ExA agrees with the Applicant that the consultation period was proportionate and appropriate given the limited scale and complexity of the proposal. Only one representation was received, which indicated no objection to the proposed change.

The ExA considers that Change Request EC04 would not alter the assessment or conclusions reported in the Environmental Statement submitted as part of the application because the change is restricted to redefining the classification of rights required over Plot 16-41 and does not alter the extent, nature or timing of the works proposed in this location.

Consequently, the ExA is satisfied that the information provided in the Third Change Request application is of a satisfactory standard for examination and that there is sufficient time within the Examination for the proposed changes to be properly and fairly examined. Therefore, the ExA accepts the changes to the Application described

in the Applicant's Change Application Cover Letter [\[CR3-002\]](#) of 23 October 2023 and supporting documents into the Examination as non-material changes. The ExA has for the same reasons agreed to the publication of the letter and supporting documents.

The ExA requires the Applicant to make and submit the revisions to the documents detailed in Section 4 of the Change Application Cover Letter [\[CR3-002\]](#) at **Deadline 7** (17 November 2023). In line with Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended), the ExA invites any person wishing to comment on the revisions to do so at **Deadline 8** (05 December 2023).

If you have any questions on the matters addressed in this letter, please do not hesitate to contact the case team using the contact details at the head of this letter.

Yours sincerely,

Rynd Smith

Rynd Smith
Lead Panel Member for the Examining Authority

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