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Highways England
For information – to all Interested
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Your Ref:

Our Ref: TR010035

Date: 3 June 2019

Dear Sir/Madam

Planning Act 2008 (as amended) – Section 89

The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 17 and The Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the CA Regs)

Application by Highways England for an Order Granting Development Consent for the A585 Windy Harbour to Skippool Improvement Scheme

Proposed Design Changes and Additional Land

I am writing under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) to request further information about the proposed design changes submitted on 17 May 2019 (Examination Library Ref [AS-027]).

On their face, in the context of the overall scheme, the proposed changes do not appear to be material to warrant a new application. However, guidance on the materiality of proposed changes to a scheme in the Planning Inspectorate's Advice Note (AN) 16 sets out that where the change requires additional Compulsory Acquisition (CA) powers for new plots of land and/or interests this is a consideration for determining materiality.

The proposed changes include a request for inclusion of a provision authorising the CA of additional land. Regulation 4 of the CA Regs reflects Section 123 of the Planning Act 2008 (as amended) and provides that this can only be included in an order granting development consent if all persons with an interest in the land consent to the inclusion of the provision or the procedures set out in Regulations 5 to 19 are followed. At this stage, while it is noted that the Applicant states consent from the landowners to the inclusion of the additional land within the Development Consent Order (DCO) has

been sought, there is no evidence of this. It is also not clear whether all persons with an interest in the additional land (not just the landowners) will give their consent.

In view of the above, I am unable to consider the change request until evidence is provided that all persons with an interest in the additional land consent/an application is made in accordance with Regulation 5 of the CA Regs. Therefore, at this stage, the request for design changes is not accepted.

To move this forward the Applicant is invited to provide evidence that all persons with interests in the additional land consent to its inclusion in the DCO as land subject to CA as soon as possible, or to indicate when this information could be submitted. Furthermore, if it turns out that the CA Regs are engaged because the relevant consents are not forthcoming, the Applicant is invited to show how the prescribed procedures could be complied with within the remainder of the examination timetable. Finally, can the Applicant please advise on whether the proposed changes have been consulted on and whether they could give rise to any environmental effects that have not been assessed within the Environmental Statement?

Yours faithfully

Gareth Symons

Examining Authority

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