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Dear The Planning Inspectorate

### **A303 Sparkford to Ilchester Dualling scheme**

**Application for a material change to an accepted Development Consent Order to include new land within the scope of compulsory acquisition and remove land from the Order Land**

### **Infrastructure Planning (Compulsory Acquisition) Regulations 2010**

#### **1 APPLICATION**

1.1 The Applicant hereby submits a request for a material amendment to the submitted DCO application under Regulation 5 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010. The changes sought are:

- An amendment to the layout, siting and size of the main construction compound which requires additional land to be added to the land affected by the DCO and which would allow the removal of some of the land currently affected.
- A change to proposed accommodation works to ensure suitable access to Blackwell Farm is maintained which requires additional land to be added to the land affected by the DCO.
- A revision to the Book of Reference [AS-009] to clarify the interests of Hazlegrove School which would be affected by the compulsory acquisition powers sought under the DCO. This change does not affect the area of land affected but amends the category of interests held to correctly note the access rights held by Hazlegrove School which would be interfered with by the DCO.
- An amendment to the shape of Plot 7/8b shown on Sheet 7 of the Land Plans (AS-004) at Gason Lane.
- Amendments to plots 5/13b and 7/1b to remove some of the affected land which is no longer required for a secondary construction compound due to the larger size of the new main compound.

1.2 The amendments to the land affected by compulsory acquisition as a result of the changes sought are:

- The addition of 98,589 square metres of agricultural land lying to the south of the A303, and the north of the B3151 and marked as plot 2/5e.

- The removal of 47,095 square metres of agricultural land lying to the south of the A303, and the north of the B3151 previously forming part of plot 2/5b, which lies to the immediate east of the land shown as plot 2/5e on the map and to the south of the remaining section of plot 2/5b.
- The addition of 580 square metres of land forming highway verge, boundary fencing and hedgerow at the junction of Blackwell Road and Traits Lane, and marked as plots 7/1d, 7/1e, and 7/7e.
- The removal of 2026 square metres of agricultural land lying to the south of the A303, north of Blackwell Road and east of Traits Lane, previously forming plot 7/7b.
- The increase in size of Plot 7/8b from 206 square metres to 209 square metres.
- The removal of 21,795.74 square metres of agricultural land lying to the south of the A303 from plot 7/1b.
- The removal of 14,909.02 square metres of agricultural land lying to the south of the A303 from plot 5/13b.

The Applicant advised the Examining Authority of its intention to make this change prior to the Preliminary Meeting of 12 December 2018.

## **2 REASONS FOR SEEKING A MATERIAL AMENDMENT**

### **Change to Main construction compound**

#### **Adding new plot 2/5e and reducing existing plot 2/5b by 47,095 square metres, consequential reductions to plots 5/13b and 7/1b**

- 2.1 Highways England has been informed by the Defence Infrastructure Organisation (DIO) that much of the land currently identified as the main construction compound is required by them for the installation of new landing lights. Highways England were not aware of the timing or impact of this proposal during pre-application consultation and the conflict of proposed uses has only become apparent following submission of the DCO application.
- 2.2 Highways England have been in correspondence with DIO and have been informed that the proposed landing light works will be carried out between April 2019 and March 2020 and that co-use of the area required for those works is not acceptable to DIO. They advise that for safety reasons they will not agree to any other party working in or moving equipment about near the lights. Given this, Highways England have identified land immediately adjacent to the existing proposed compound area, within the same landownership which it considers is suitable for use as the replacement main construction compound. Highways England therefore requests a change to the red line of the Order to include a new construction compound area at plot 2/5e and to remove part of the existing compound area subject to retention of a strip on the northern edge to provide access creating a reduced plot 2/5b.
- 2.3 This change is considered to be pressing in line with the Planning Inspectorate's Advice Note 16 ("Advice Note 16") as the relocation of the construction compound away from a potential conflict with the MoD is necessary to manage the risk to the project. Once the MoD acquires an interest in the original compound site, as they advise they intend to, that interest will render it Crown land meaning that the Applicant cannot compulsorily acquire any rights over it. An alternative site must accordingly be secured.
- 2.4 The Applicant has been in contact with the landowner of plots 2/5e and 2/5b to discuss this proposed change and they are aware that this request would be made. Negotiations with the landowner to seek to acquire the land voluntarily

are ongoing but have not yet concluded and inclusion of these plots with compulsory acquisition is therefore required.

- 2.5 The larger size of the proposed new main compound allows the removal of much of plots 5/13b and 7/1b from compulsory acquisition. This area was previously proposed as a secondary construction compound; that has now been amalgamated with the main compound. This change will also assist in addressing objections raised by the landowner of 5/13b and 7/1b that these works would negatively impact on their agricultural operation and use of their unaffected land.

**Associated development - accommodation work – provision of access to Blackwell Farm. Adding plots 7/1d, 7/1e, and 7/7e and Work 104 and removing plot 7/7b and Work 59**

- 2.6 The access track proposal forming Work 59 and plot 7/7b was added to the application in response to pre-application consultation and discussion with the landowner of Blackwell Farm as their preferred route for this accommodation work. An objection to that access has been received from an adjacent landowner, who is concerned that the junction with the public highway would be very close to their property. Highways England has continued to work on options for access to Blackwell Farm and has identified another way of providing access by widening the corner and junction of the existing public highway rather than constructing an entirely new access track on what is currently greenfield land in agricultural use.
- 2.7 The land required for widening under Work 104 is mostly highway verge, with an area in the ownership of the party for whom the access works are required and a small area in third party ownership. The proposed widening would require less land take and less new hard surfacing than the current track and would move the junction of the access away from the objector's property. Highways England therefore requests a change to the red line of the Order to include three new plots (forming the new Work 104) and remove plot 7/7b and delete Work 59.
- 2.8 The Applicant has been in contact with owners of Blackwell Farm and plots 7/1d and 7/1e and the owners of plot 7/7e to discuss this proposed change and they are aware that this request would be made. Negotiations with the landowner to seek to acquire the land voluntarily are ongoing but have not yet concluded and inclusion of these plots with compulsory acquisition is therefore required. The local highway authority has been informally consulted on the proposed change and has raised no objection.

**Hazlegrove School**

- 2.9 Highways England has also identified an error in the landowner consultation. One party (Hazlegrove School) holding rights within the Order land, which will be affected by the scheme, was consulted as a category 1 and 3 affected person but should have been consulted as category 2. At the same time as undertaking consultation on the proposed changes Highways England intends to also consult Hazlegrove School as a class 2 affected person.
- 2.10 The Applicant has been in contact with Hazlegrove School to discuss this proposed change and they are aware that this request would be made.

## **Change to Gason Lane**

### **Extension of plot 7/8b**

- 2.11 This plot currently extends into the verge of the public highway at Gason Lane but does not fully meet the edge of the carriageway. As the public and private right of way to be created on this land is to be hard surfaced, Highways England proposed to extend the plot by 3 square metres to meet the edge of the existing carriageway and permit an appropriate join to be made.

## **3 ASSESSMENT OF THE NATURE OF THE CHANGE REQUESTED**

- 3.1 As set out in Advice Note 16, the determination of whether the change requested is material is to be made by the Examining Authority, not the Applicant. Highways England has however set out its reasons for considering the change to be material, but not one of substance, in this section.
- 3.2 The change request made involves the addition of new land to the Order Land within the scope of compulsory acquisition. The changes would also relocate the main construction compound onto land not previously included within the Order. Given the amendment of the red line boundary to affect new land and the relocation of the main construction compound Highways England considers that the changes go beyond what can be considered non-material in the facts and circumstances of this Application.
- 3.3 In assessing the proposed changes, Highways England has had regard to the advice contained in the Planning Inspectorate's Advice Note 16. Highways England note that the substance of the scheme is the construction of a new highway within the meaning of section 22(1)(a). Given that the changes proposed are to the location of a temporary construction compound, an accommodation work, a minor plot extension and the detail of the Book of Reference and that no changes are proposed to the highway to be constructed, its configuration, layout, or speed limit, Highways England consider that the changes proposed do not alter the substance of the scheme applied for.

## **4 SUPPLEMENTARY ENVIRONMENTAL INFORMATION**

- 4.1 The Applicant has prepared Supplementary Environmental Information (SEI) to support this change request and a preliminary copy of that is submitted with this request in order for the Examining Authority to consider the nature of the change requested and the adequacy of the SEI.
- 4.2 The Applicant notes that there is no statutory requirement to consult on or publicise this SEI under The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and that this is noted in Advice Note 16. The Applicant however notes the guidance given in that Advice Note and that, having consulted on the Environmental Statement to which this SEI pertains, it would be fair and reasonable to consult on that SEI.
- 4.3 Consultation on the SEI started on 14 February 2019 and will close on 25 March 2019. Constraints of time do not allow for the completion of consultation on the SEI prior to the making of this request. The consultation will however complete in advance of the completion of notification and publication of this request in accordance with the Infrastructure Planning (Compulsory Acquisition) Regulations 2010. Highways England will provide the Examining Authority with copies of consultation responses on the SEI and a final version of the SEI including any proposed changes made in response to consultation no later than the submission of the Certificates of Compliance with the Compulsory

Acquisition Regulations. That means that Highways England will have carried out full consultation on the SEI prior to the Examining Authority's consideration of the initial issues in accordance with the Compulsory Acquisition Regulations. It is therefore considered that no prejudice is caused to any party by undertaking the SEI consultation in this way.

## **5 INFRASTRUCTURE PLANNING (COMPULSORY ACQUISITION) REGULATIONS 2010**

5.1 In accordance with the requirements of section 123 of the Planning Act 2008 the provisions of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 will apply to this request.

## **6 TIMING**

6.1 The Applicant has been asked to provide an explanation of how this request can be accommodated within the examination timetable. This request has been made on the 18 February 2019. While the Examining Authority has a maximum of 28 days to consider whether to accept this request, the Applicant would hope that, given the limited scope of the changes, the full period for consideration of acceptance would not be necessary.

6.2 The Applicant suggests the following example timetable is realistic:

- Request made 18 February 2019
- Acceptance decision made by 04 March 2019 (14 days)
- Infrastructure Planning (Compulsory Acquisition) Regulations 2010 notification and publication carried out 07 March to 11 April 2019 (to allow for the need to publish press notices for two successive weeks).
- Certificates of compliance with regulations submitted 15 April 2019.
- Examining Authority determine initial issues and procedure for examining the request no later than 30 April 2019 (15 days).
- Notice of hearings is issued on 02 May 2019
- Hearings held 22 and 23 2019 in addition to or in place of those currently scheduled for 14, 15 and 16 May 2019.
- Examination closes 12 June 2019.

## **7 ENCLOSURES**

7.1 Enclosed with this letter are the following documents, required under Regulation 5 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010:

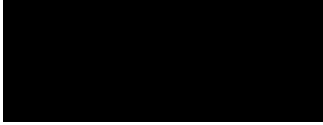
- (a) Supplemental Book of Reference
- (b) Land plan identifying the additional land / land affected by the provision
- (c) Statement of Reasons Addendum
- (d) Funding Statement Addendum

7.2 Also enclosed, in accordance with Advice Note 16, are the following documents:

- (a) A schedule of all application documents and plans listing consequential revisions to each document and plan or a 'no change' annotation and an update of any consents/licences required and whether the proposed change could cause an impediment to securing any of those consents/licences; and
- (b) A tracked change version of the DCO and Explanatory Memorandum.

We look forward to hearing from you.

Yours sincerely,



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