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Cc:	A303 Sparkford to Ilchester
Subject:	TR010036 A303 Sparkford to Ilchester - SCC"s deadline 8 response
Date:	10 June 2019 20:59:50
Attachments:	TR010036_SCC Deadline 8 Cover Letter.pdf Appendix 1 - Response to HE Section 278 comments.pdf Appendix 2 - Response A303 Action point 18.pdf Appendix 3 - Anti social behaviour evidence.pdf Appendix 4 - Response A303 Action point 44.pdf Appendix 5 - Response A303 Action 49.pdf Appendix 6 - Land Ownership outside Mattia Diner.pdf Appendix 7 - Amended DCO comments.pdf

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PLANNING ACT 2008
APPLICATION BY HIGHWAYS ENGLAND FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE A303 SPARKFORD TO ILCHESTER DUALLING
SUBMISSION MADE PURSUANT TO DEADLINE 8

PLANNING INSPECTORATE REFERENCE TR010036

Please find attached relevant documents from Somerset County Council in respect of Examination Deadline 8.

Yours faithfully,

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Appendix 4

Action Point 44 from 14th & 15th May – Requirement 12 – Response to analysis of paragraphs 1.41 and 1.42 of Volume 1 of DMRB on potential local approval

1. Context

The Applicant maintains that the Secretary of State should be the approving authority in relation to the changes to the local road network, and not the County Council, based on the provisions of the DMRB and the general objectives of the Planning Act 2008 to streamline the planning process for the approval of nationally significant infrastructure projects.

The County Council maintains its position that it is the appropriate authority for the approval of changes to the local road network, and is of the view that the Applicant is mistaken in its view that the deletion of any requirement for agreement with the adopting authority on changes to local roads in GD01/15 has been superseded by document number GG101 in order to reinforce to designers that liability for the design rests solely with them. The Council considers that to rely merely on the deletion of this text as evidence that local approval is not required is irrational and contrary to the provisions of the DMRB and the changes to the Planning Act 2008 made by the Localism Act 2011.

2. The Scope of the DMRB (Using extracts from the DMRB in quotation marks with underlining added for emphasis)

"*The Design Manual for Roads and Bridges (DMRB) is a suite of documents which contains requirements and advice relating to works on motorway and all-purpose trunk roads for which one of the Overseeing Organisations is highway or road authority.*"

It relates primarily to motorways and trunk roads, and not to local roads. However, the definitions section explains that it can be applied to such roads if the local highway authority should so decide, in which case the Overseeing Authority is decided by the local highway authority's own procedures.

"*Overseeing Organisation*

The following organisations (or their successors):
1. Highways England Company Limited; 2. Transport Scotland; 3. The Welsh Government; 4. Department for Infrastructure (Northern Ireland).

NOTE 1: Where any document within the DMRB refers to the Highways Agency, this can be taken to mean Highways England or its successors.

NOTE2: Where a local highway/road authority decides to use the DMRB in whole or part for development of its own highway/road network, the Overseeing Organisation is defined in accordance with their own procedures."

This interpretation is confirmed in the scope of the document:

"*1. Scope Aspects covered*

1.1 The DMRB provides requirements which shall be applied to the appraisal, design, maintenance, operation and disposal of motorway and all-purpose trunk roads for which one of the Overseeing Organisations is highway or road authority.

NOTE DMRB requirements can be applied to other roads with the approval of the specific highway or local authority acting as the Overseeing Organisation.

1.1.1 Where DMRB requirements are applied to other roads, the specific highway or local road authority acting as the Overseeing Organisation should decide on the extent to which the requirements are appropriate in any given situation."

The Applicant's position that the County Council as local highway authority should have no role in changes to the local highway network for which it is responsible, based on alterations to the DMRB, cannot be justified. The above extracts demonstrate that the DMRB respects the role of the local highway authority in overseeing changes to its network, and that the local highway authority is best placed to decide what requirements are appropriate to its network, not Highways England or the Secretary of State.

3. The Planning Act 2008 and Localism

The Applicant relies on the Planning Act 2008 to support its position against local approval of changes to the local highway network on the basis that the purpose of the Planning Act, in very general terms, was to streamline the planning process by avoiding the need for separate consents for nationally significant infrastructure projects.

This general overview of the DCO process fails to take into account the changes made by the Localism Act 2011 to section 120 of the Planning Act 2008 and the basis for those changes.

To set this in context, pasted below is an extract from the Foreword of "A plain English Guide to Localism Act" published by the Department of Communities and Local Government November 2011:

""The time has come to disperse power more widely in Britain today."

The Prime Minister and the Deputy Prime Minister, Coalition Agreement, May 2010

For too long, central government has hoarded and concentrated power. Trying to improve people's lives by imposing decisions, setting targets and demanding inspections from Whitehall simply doesn't work. It creates bureaucracy. It leaves no room for adaptation to reflect local circumstances or innovation to deliver services more effectively and at lower cost. And it leaves people feeling 'done to' and imposed upon - the very opposite of the sense of participation and involvement on which a healthy democracy thrives."

In relation to the section on changes to the planning system, it states:

"Reform to make the planning system clearer, more democratic and more effective

The planning system helps decide who can build what, where and how. It makes sure that buildings and structures that the country needs (including homes, offices, schools, hospitals, roads, train lines, power stations, water pipes, reservoirs and more) get built in the right place and to the right standards. A good planning system is essential for the economy, environment and society.

There are, however, some significant flaws in the planning system that this Government inherited. Planning did not give members of the public enough influence over decisions that make a big difference to their lives. Too often, power was exercised by people who were not directly affected by the decisions they were taking. This meant, understandably, that people often resented what they saw as decisions and plans being foisted on them. The result was a confrontational and adversarial system where many applications end up being fought over.

The Localism Act contains provisions to make the planning system clearer, more democratic, and more effective."

One of the major changes introduced by the Localism Act in relation to nationally significant infrastructure projects was to abolish the Infrastructure Planning Commission, an unelected public body, and make government ministers, who are democratically accountable to the public, the decision makers.

This principle not only relates to the decision on the DCO itself, but also approvals under the requirements of the DCO. The devolving of decision making to locally accountable bodies in relation to the finer details of the DCO scheme was also addressed by section 140 of the Localism Act 2011.

Section 120(1) of the Planning Act 2008 provides that a development consent may impose requirements in connection with the development for which consent is granted.

Prior to the coming into force of section 140 of the Localism Act 2011 on 1st April 2012, section 120 limited the requirement for subsequent approval and made no reference as to by whom that approval would be given.

Section 140 of the Localism Act 2011 amended section 120(2) of the Planning Act 2008 to not only remove this limitation but also to make explicitly clear in the new text inserted as section 120(2)(b) that the requirement to obtain approval could be that of “any other person”, and not just the Secretary of State.

The requirement to obtain approval of the County Council as local highway authority to changes to the local road network is consistent with the provisions of the DMRB, the principles of the Localism Act 2011 and the changes made to the Planning Act 2008 by the Localism Act 2011.