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Dear Sirs,

PLANNING ACT 2008: APPLICATION FOR THE PROPOSED A303 SPARKFORD TO IILCHESTER DUALLING ORDER

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to:

- the report dated 12 September 2019 of the Examining Authority (“the ExA”), a Panel of two examining Inspector’s consisting of Lesley Coffey and Robert Jackson, who conducted an examination into the application by Highways England (“the Applicant”) for the A303 Sparkford to Ilchester Dualling Development Consent Order (“the Order”) under section 37 of the Planning Act as amended (“the 2008 Act”);
- late representations received by the Secretary of State following the close of the examination; and
- responses to further consultation undertaken by the Secretary of State in respect of the application.

2. The Application was accepted for examination on 23 August 2018. The examination began on 12 December 2018 and was completed on 12 June 2019. The examination was conducted on the basis of written and oral submissions submitted to the ExA and by eight issue-specific hearings, two compulsory acquisition hearings and four open floor hearings. The ExA also concluded three unaccompanied site inspections and one accompanied site inspection.

3. The Order as applied for under the 2008 Act would grant development consent to Highways England to provide a continuous dual carriageway on the A303 linking the Podimore Roundabout and the Sparkford Bypass. The proposals would include the removal of at-grade junctions and direct accesses. Any new junctions would be constructed

to grade separated standards, or to compact grade separated standards depending upon anticipated traffic flows.

4. Enclosed with this letter is a copy of the ExA's Report. The main features of the proposals are described in section 2 of the ExA. The ExA findings and conclusions are set out in sections 4 to 15, and the ExA's summary conclusions and recommendations on the request for the DCO are in section 17.

5. The ExA recommend that the Order should not be made because the Proposed Development would not accord with a number of provisions within the National Network National Policy Statement ("NNNPS") including military and defence interests, failure to mitigate the effects of the Proposed Development on Non-Motorised Users ("NMUs"), the detrunked section of the A303 and the creation of a parallel road, and the provision of turning heads within the DCO.

Summary of Secretary of State's views

6. For the reasons explained at paragraphs 11 to 40 of this letter, the Secretary of State considers that he is not yet in a position to decide whether to accept the ExA's recommendation. He is nevertheless currently minded to agree with the Panel that he should not make the Order granting development consent for the project unless the Applicant can provide further information or evidence to demonstrate how the following issues identified by the ExA can be satisfactorily addressed:

1. in relation to the concerns by the Defence Infrastructure Organisation ("DIO") regarding the potential for "*birdstrike*" as the proposed ponds at RNAS Yeovilton would have the potential to attract birds that are hazardous to aircraft, information from the Applicant on:
 - (i) the potential scope of a Bird Hazard Management Plan ("BHMP"), the extent to which it would address DIO's concerns around birdstrike, and confirmation that any changes proposed to the design of the ponds as part of the BHMP would be consistent with the Environmental Statement ("ES") and Drainage Strategy and delivered.
2. in relation to the adverse effects on Non-Motorised Users and the Local Road Network, information on:
 - (i) the deliverability of the mitigation proposed by the ExA for the three routes of particular concern: Eastmead Lane/Higher Farm Bridge route; Traits Lane/Gason Lane bridleway; and the Hazlegrove underbridge.
3. in relation to the detrunked section of the A303 that would continue to provide access to the Mattia Diner and filling station information on:
 - (i) how the Applicant would be able satisfactorily to address the risks of anti-social behaviour and the financial responsibilities for the detrunked section other than by the amendment to article 13(4) proposed by the ExA.

(ii) whether the Applicant is able to secure the delivery of a parallel road along the retained parts of the A303 detrunked section and, if so, the extent to which such a parallel road would address the negative impacts identified by the ExA, such as the risk of anti-social behaviour and the impact on local businesses such as the Mattia Diner and filling station, and how delivery of this parallel road would be secured.

4. in relation to the Applicant's proposals to use temporary possession powers to deliver permanent Works on land that that would then be designated as public highway, information from the Applicant on:

(i) how the Applicant would address and secure the delivery of permanent turning heads if it is not able to use temporary possession powers in the way it originally proposed.

7. The process by which the Applicant is invited to respond, and by which the response will be made available to interested parties for comment, is set out in paragraphs 43 and 44 below.

8. The Secretary of State has considered the ExA's report, the further representations received after the close of the examination, responses to the consultation letter dated 5 November 2019, and all other material considerations. The Secretary of State's initial considerations of these matters is set out in the following paragraphs. All paragraph references, unless otherwise stated, are to the ExA's report.

Legal and Policy Context

9. Given that the application requires development consent, section 104(2) of the 2008 Act has effect in relation to the development to which the application relates. In determining this application, the Secretary of State must therefore have regard to the relevant National Policy Statements ("NPS"), and Local Impact Reports ("LIR") submitted, any matters prescribed in relation to development of the description to which the application relates, and any other matters the Secretary of State considers to be both important and relevant to the decision (ER 3.1.2). Under section 104(3) of the 2008 Act the Secretary of State must decide this application in accordance with any relevant NPS which in this case is the NNNPS subject to exceptions set out in section 104(5) to (8) of the 2008 Act, which are not triggered in this case.

10. The LIR and the relevant development plans the Secretary of State has regard to are set out in ER 3.10 and 3.11. The Secretary of State also notes the ExA's assessment set out in ER 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, and 3.9 of European Law and related UK regulations, other relevant legal provisions, previous DCO's, transboundary effects, Government Transport Policy, other relevant policy statements and the National Planning Policy Framework ("the Framework"), and agrees these are matters to be considered in deciding this application.

Birdstrike

11. The Secretary of State notes the DIO's concern about the potential for birdstrike as the proposed ponds would have the potential to attract birds hazardous to aircraft (ER

10.5.89, 10.5.91). The Secretary of State notes the ExA's conclusion that the Proposed Development would have significant implications for birdstrike and therefore would be contrary to the advice at paragraph 5.47 of the NNNPS. The Secretary of State notes the ExA's view that the suggestions by the DIO that the ponds could be predominately dry, or alternatively could provide steep sides and dense planting, would both fail to accord with the assessed Drainage Strategy. The Secretary of State notes that as a consequence a revised Drainage Strategy would be required and this could have significant implications for other areas in the ES and could also have significant implications for both NMUs and motorists (ER 10.5.103 and 10.5.104).

12. The Secretary of State notes that on the basis of the evidence submitted to the examination and taking account of the potential loss of life, the ExA is not persuaded that the design of the ponds in terms of their precise location, size and depth should be a matter of detailed design (ER 10.5.106).

13. The Secretary of State consulted on this issue in his letter dated 5 November 2019. In their response dated 26 November 2019, the DIO highlighted the need for a BHMP to be secured through the DCO, which would contain measures to ensure that the ponds created as part of the scheme will be managed to ensure that the landscaping and planting is maintained to reduce the risk of attracting and supporting bird species deemed hazardous to aviation safety. The Applicant in their response dated 26 November 2019 rejected the suggestion of a BHMP as being unnecessary and would impose an unreasonable burden on the Applicant with which it could not comply. The Applicant noted that other provisions to reduce the risk of birdstrike are already secured in the DCO, and noted that the imposition of a BHMP requirement was not debated during the examination.

14. The Secretary of State considers that he does not have sufficient information regarding whether the provisions in the DCO currently offer sufficient safeguards to ensure that the issue can be adequately addressed or whether these safeguards are deliverable. Consequently, he is seeking further information regarding the potential scope of a BHMP, the extent to which it would address DIO's concerns around birdstrike, and confirmation that any changes proposed to the design of the ponds as part of the BHMP would be consistent with the ES and drainage strategy and delivered.

Non-Motorised Users ("NMU")

15. The Secretary of State notes that the Proposed Development includes the permanent diversion of all grade crossings of the A303 between Hazlegrove and Podimore, which involves the stopping up or diverting of a number of existing NMU routes and the creation of new rights of way (ER 10.5.20). The Secretary of State notes that the ExA has concerns with specific NMU routes which include Eastmead Lane connection, the Traits Lane/Gason Lane link and the Hazlegrove Underbridge and the considerations given to them in ER 10.5.26 to 10.5.87.

Eastmead Lane

16. The Secretary of State notes that the Right of Way Y30/28 (also known as Eastmead Lane) is stopped up over a distance of 27m northwards from its junction with the existing A303 (ER 10.5.26). The Secretary of State notes the Applicant's mitigation for stopping up

Y30/28 is the provision of a new NMU route from Eastmead Lane to Sparkford via Downhead (ER 10.5.27).

17. The Secretary of State notes the debate in the examination regarding the status of bridleway Y30/29, which was authorised as part of the Side Roads Order that came into effect on 7 November 1996 and authorised the provision of a bridleway connecting Eastmead Lane with High Farm Lane (ER 10.5.28 and 10.5.29). The Secretary of State notes that in the absence of any evidence to suggest that Somerset County Council (“SCC”) was notified that bridleway Y30/29 was complete and open to traffic (ER 10.5.30), the ExA concludes that the bridleway was not delivered as part of the 1996 Side Roads Order. The Secretary of State notes that the ExA concludes that bridleway Y30/29 has no legal status and accordingly there is no connection for walkers, horse-riders or cyclists via Y30/31 between Podimore and Y30/28 (ER 10.5.33 and 10.5.35).

18. The Secretary of State notes that the route proposed by the Applicant would involve a journey of about 5.2km for those wishing to cross the A303 at this point (ER 10.5.36). The Secretary of State notes that whilst a diversion in excess of 5km may not be excessive for a motorised user, it is likely to take someone walking 45 to 60 minutes each way. The ExA considered that this failure to provide a suitable and convenient crossing would be contrary to the Government’s aim of providing people with sustainable transport choices by attractive and convenient routes (ER 10.5.37) and would effectively sever the community, which is at odds with the policy in the NNNPS (ER 10.5.41).

19. The Secretary of State notes the Applicant’s position that there is no north-south crossing at this location and that it should not be expected to remedy this missing link as part of the DCO scheme. The Secretary of State notes that the ExA accepts that crossing the A303 at this location is not ideal in terms of safety and that the ExA acknowledges that the number of NMUs using this route is likely to be low due to the speed and flow of traffic, but states that since it is an existing route it should be mitigated. He further notes that the ExA disagrees that the road cannot be crossed at this point (ER 10.5.38).

20. The Secretary of State notes the alternative proposed by SCC, South Somerset District Council and South Somerset Bridleway Association, which would follow bridleway Y30/29 until it reached bridleway Y30/UN at Higher Farm Lane, where the existing Higher Farm Bridge could be used to cross the A303 into the village of Podimore. This diversion would be about 1.5km in length. The Secretary of State notes that this route would require Y30/UN to be upgraded from footpath to bridleway status (ER 10.5.36) and potentially alterations to Higher Farm Lane Bridge. The ExA concluded that an additional requirement should be included in the DCO to ensure that adequate mitigation is provided (ER 10.5.46).

21. The Secretary of State consulted on these issues in November 2019. The Applicant’s response in their letter dated 26 November 2020 reiterated the point made in the examination that it should not be expected to remedy a missing link as part of its DCO scheme. The Applicant also noted that the feasibility study on upgrading the Higher Farm Lane Overbridge had been completed but funding would need to be secured through the Highways England Designated Funds and would remain separate from the Proposed Development. However, the Secretary of State notes that under paragraph 3.17 of the NNNPS there is an expectation that Applicants will use reasonable endeavours to address the needs of cyclists and pedestrians in the design of new schemes and to identify

opportunities to invest in infrastructure in locations where the national road network severs communities and acts as a barrier to cycling and walking.

22. The Secretary of State is minded to agree with the ExA's concern that mitigation for this impact is required and would therefore be minded to agree to the inclusion of the ExA's suggested requirement were he to grant development consent. However, the Secretary of State does not currently have enough information before him to determine whether the requirement proposed by the ExA would be deliverable and seeks information from the Applicant as to whether appropriate mitigation could be delivered.

Traits Lane

23. The Secretary of State notes that the application proposes the stopping up of Traits Lane and Gason Lane on the south side of the A303; consequently neither pedestrians or horse riders would be able to cross the proposed road at this point. The Applicant proposed the diversion of a number of footpaths which would have provided a continuous bridleway link along the southern side of the Proposed Development (ER 10.5.48). As a result of a non-material change to the application there would be no connection between the proposed bridleway to the west site of Traits Lane and the east side of Gason Lane (ER 10.5.50). The ExA concluded that no mitigation has been provided for horse-riders and others that are currently able to cross the A303 at grade crossing (ER10.5.51) and that this severance of the existing PRow network would be contrary to paragraphs 5.184 and 5.205 of the NNNPS (ER 10.5.52).

24. The Secretary of State notes that the provision of an alternative route linking Traits Lane would require either the acquisition of the land immediately adjacent the proposed diversion, or permission from the Ministry of Defence ("MOD") to use the proposed diversion as a bridleway as well. The Secretary of State notes the former would involve land that now lies outside the red line boundary and could involve acquisition beyond that shown on the land plans and the Book of Reference (ER 10.5.54). The Secretary of State notes that MoD confirmed in their response of 26 November 2020 they were content with a footpath diversion across their land but they were not content with a bridleway diversion.

25. The Secretary of State consulted the Applicant in November 2019 regarding potential mitigation. In their response dated 26 November 2019, the Applicant stated that for cyclists and horse-riders (who are less sensitive than pedestrians to small increases in journey length) the proposed alternative route through Traits Lane to Blackwell Road and then along Blackwell Road to Gason Lane is acceptable.

26. The Secretary of State is minded to agree with the ExA's view that failure to provide a bridleway at this location would sever the PRow network and would have significant consequences for horse-riders who currently use this part of the NMU network (ER 10.5.129). The ExA has recommended that an additional requirement be included within the DCO to ensure that alternative provision is made for horse-riders and other NMUs who currently cross this part of the A303 (ER 10.5.57). The Secretary of State would be minded to agree with this requirement were he to grant development consent but considers that he does not currently have sufficient information to determine whether such a requirement would be deliverable and seeks information from the Applicant as to whether appropriate mitigation could be delivered.

Hazlegrove Underbridge

27. The Secretary of State notes that the importance of the Hazlegrove underbridge to the NMU network is explained in ES Chapter 12 which would provide the primary crossing point for NMUs towards the eastern end of the Proposed Development. The Secretary of State notes that it is proposed that the underbridge would be used for motorised and non-motorised traffic and only lit during the daytime. The Secretary of State notes that the ExA questioned the safety implications of not providing lighting during the hours of darkness; the Applicant indicated that no specific security assessment of the underbridge or its approaches has been undertaken with respect to the provision of lighting for the NMU route (ER 10.5.58 to 10.5.60).

28. The Secretary of State notes that the ExA considers in the absence of lighting the underbridge would not provide an attractive route for NMUs and as a consequence fails to accord with paragraph 5.184 of NNNPS (ER 10.5.61). The ExA therefore recommended a new paragraph (2) to requirement 16 for the scheme to include measures for lighting the Hazlegrove junction underbridge during hours of darkness (ER 16.6.154 Table 9).

29. The Secretary of State is minded to agree that night-time lighting represents a reasonable step that is essential to minimise the risk of road casualties and improve road safety (ER 10.5.75) and would be minded to agree with the ExA's recommended change to the DCO. However, he considers that he does not have sufficient information to determine whether such a requirement would be deliverable and seeks information from the Applicant as to whether the required mitigation could be delivered.

Socio-Economic Effects on Surrounding Communities on Detrunked Road

30. The Secretary of State notes that the NNNPS promotes the delivery of environmental and social benefits as part of new schemes and requires any adverse impacts to be mitigated in line with the principles set out in the Framework and the Government's planning guidance (ER 11.2.1). The Secretary of State notes the Applicant's case set out in ER 11.3.1. to 11.3.8 and case for interested parties set out in ER 11.4.1 to 11.4.11.

31. The Secretary of State notes that the ExA concluded that the Proposed Development would deliver some economic benefits to the wider area due to the reduction in journey time and benefits arising from improved connectivity and greater journey reliability (ER 11.6.1). The Secretary of State also notes that at local level there would be some economic benefits during construction but balanced against this local communities would experience additional delays, noise and inconvenience during the construction period (ER 11.6.2).

32. The Secretary of State notes the ExA's view that overall the Proposed Development would fail to mitigate the social effects of the Proposed Development in accordance with paragraph 3.3 of the NNNPS and would also fail to address the concerns in the LIR in relation to the de-trunked section of the A303 (ER 11.6.5). The Secretary of State notes that the adverse effect of the Proposed Development on business in the locality, such as the Mattia Diner and adjacent filling station, together with the failure of the Applicant to provide signage to help to mitigate these adverse effects is afforded significant weight by the ExA (ER 11.6.6).

33. SCC expressed concern that the de-trunked road could be subject to anti-social behaviour, such as fly-tipping, and could leave SCC with significant on-going financial liabilities. The Secretary of State notes the ExA shares these concerns and that the long unlit nature of the de-trunked section may deter NMUs from accessing the adjacent proposed NMU route, adding to severance (ER 11.5.15, 11.5.17 and 11.6.3). The ExA considered that SCC is likely to incur financial liabilities as a result of the de-trunked section of the road (ER 16.6.104) and that such liabilities are likely to be an on-going problem (ER 16.6.106). The ExA has proposed that article 13(4) be amended and would involve separating Schedule 3 Part 2 into Section A (de-trunked roads to become vested in SCC) and Section B (de-trunked roads to remain under the control and management of the Applicant) (ER 16.6.108).

34. The Secretary of State consulted on measures that could be adopted to mitigate any potential anti-social behaviour in November 2019. The Applicant's response set out that SCC has not provided any evidence regarding the potential for anti-social behaviour and its opposition to the request that it mitigates potential (and unproven) effects, that are in any event outside of the Applicant's remit or control. The Applicant reiterated that it was happy to discuss design measures with SCC which could be incorporated to address potential anti-social behaviour.

35. The Secretary of State is minded to agree with the ExA that the Proposed Development has an adverse effect on local businesses, and that mitigation should be provided to address the potential effects of anti-social behaviour; he would, therefore, have been minded to adopt the changes proposed by the ExA to article 13(4) in the event that development consent was granted. However, he would welcome further information as to how the Applicant would be able satisfactorily to address the risks of anti-social behaviour and the financial responsibilities for the detrunked section other than by the amendment to article 13(4) proposed by the ExA.

36. The ExA also considered whether a parallel road should be provided, as sought by the parish councils and other interested parties (ER 10.5.108). The Applicant considered that it would require an area of MoD land, which if it could not be acquired by agreement within the necessary timescale would represent a risk to the project (ER 10.5.109). The ExA considered that the provision of a parallel road would provide clear benefits for local communities, provide resilience in the event of an accident and benefits during the construction period as the existing road could remain open (ER 10.5.113). The ExA also concluded that the provision of a parallel road would assist in addressing the isolation of the Mattia Diner and filling station that is a direct consequence of the Proposed Development (ER 11.5.18). However, the ExA concluded that while it would be a desirable and prudent modification to the Proposed Development, the failure to provide a parallel road did not justify withholding consent (ER 10.5.114) and should be afforded moderate weight (ER 10.5.134).

37. The Secretary of State is minded to agree with the ExA's analysis as set out in the paragraph above. He would therefore welcome further information as to whether the Applicant is able to secure the delivery of a parallel road along the retained parts of the A303 detrunked section and, if so, the extent to which such a parallel road would address the negative impacts identified by the ExA, such as the risk of anti-social behaviour and the

impact on local businesses such as the Mattia Diner and filling station, and how delivery of this parallel road would be secured.

Compulsory Acquisition and Temporary Possession in relation to Turning Heads

38. The Secretary of State notes the ExA's consideration of compulsory acquisition ("CA") and related matters at Chapter 15 of the Report. The Secretary of State notes the discussion at Examination regarding the turning head land within Schedule 5 of the DCO (ER 15.9.1 to 15.9.43). The Secretary of State notes the ExA's view that the use of TP and CA of rights as a means of delivering permanent Works on land that would then be designated as public highway to be inappropriate, lacking in transparency and procedural fairness (ER 15.10.8). The ExA also considered that the Affected Persons may be unaware that they are effectively dispossessed of their land, which could have implications for the Human Rights of those parties (ER 15.9.43). The ExA concluded that the CA powers sought in respect of plots 4/4b, 5/3j, 7/1c, 7/5a, 7/7c, 7/7d and 7/8c are not justified (ER 15.11.9) and that the removal of these plots from the request for CA would mean that it would not be possible to deliver the proposed turning heads, and in the absence of these, there would be adverse effect on highway safety and convenience (ER 15.11.10).

39. The Secretary of State sought information from the Applicant regarding their approach to the turning head land in November 2019. The Applicant's response indicated that their approach was reasonable and proportionate. Affected landowners were aware of the proposed approach and did not object. The Applicant also indicated that it had sought to change the acquisition of the turning head land to freehold acquisition but that this change was not accepted by the ExA. In this response, the Applicant also drew attention to their legal submission (REP08-32) which set out their detailed view regarding the legality of the approach adopted.

40. The Secretary of State is minded to agree with the ExA's concerns as to the ability to deliver permanent turning heads on the land in question using temporary possession powers and the Secretary of State is therefore seeking further information as to how the Applicant would address and secure the delivery of permanent turning heads if it is not able to use temporary possession powers in the way it originally proposed.

The Secretary of State's overall conclusions and decision

41. The Secretary of State notes that the ExA found that the Proposed Development would not accord with a number of provisions within the NNNPS, including on socio-economic impacts, sustainable transport, safety, military and defence interests, and noise (ER 14.4.4).

42. The Secretary of State is currently minded to agree with the ExA that, on balance, the Proposed Development is not in accordance with the NNNPS and that the disbenefits of the Proposed Development outweigh the benefits. However, he considers that he needs further information as set out in this letter to be able to come to a final view as to whether or not some or all of these impacts could be satisfactorily mitigated and consequently whether any remaining disbenefits outweigh the benefits.

Next Steps

43. The Applicant is invited to respond to the Secretary of State (to the e-mail address at the top of this letter) by 18 August 2020 to provide any relevant information on the matters referred to at paragraph 6 above. If it is not possible for the Applicant to address those within that time, the Applicant should explain the reasons for this. If any consequential revisions to the Order are required the Applicant is invited to submit a revised Order with its response.

44. The Applicant's response and any revised Order will then be published on the Planning Inspectorate's website and comments will be invited from interested parties within a further 28 days on those matters only. The Secretary of State will consider the Applicant's response and any related comments in reaching his decision.

45. In order to allow time for these steps to be taken, the Secretary of State is setting a new deadline for his decision on this application of 20 November 2020 and has made a statement to the House of Commons in accordance with section 107(7) of the 2008 Act.

Yours faithfully,

Natasha Kopala