



Mr Adrian Hunter
Examining Authority
A47 North Tuddenham to Easton
National Infrastructure Planning
Temple Quay House
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21 January, 2022

Dear Mr Hunter,

National Highways badly worded representation of the RIS2 legal challenge

In REP7-015 (page 12) National Highways requests that we retract our comments about its representation of the RIS2 legal challenge made in our letter on 14 December, 2021. It appears particularly aggrieved at the suggestion it might have deliberately misled the Examination:

This is a very serious allegation that the Applicant has deliberately misrepresented factual matters to the Examination. It is wholly unwarranted and wrong.

I am happy to withdraw the suggestion that it might have been done deliberately although it is worth reiterating that in our letter dated 14 December, 2021, I stated that the misrepresentation was either deliberate or in error and not definitively deliberate. However, having spoken to our lawyers, the statement made by the Applicant contains at least one factual error and was also badly worded which has led to the confusion.

To expand on this, the wording in REP4-015 on page 28 states:

Summary of Applicant's Response at ISH1

This case is not specifically to do with the determination of applications for DCO projects, it was an application for judicial review into the road investment strategy (RIS) decision of the Secretary of State's on the 11th March 2020, pursuant to section 31 of the Infrastructure Act 2015.

This is incorrect as it should be section 3(5)(a), not section 31 of the Infrastructure Act 2015.

Secondly and the reason I was confused by the Applicant's wording is that they state that:

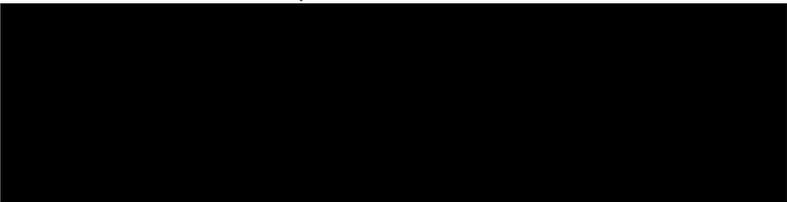
*Dr Boswell doesn't refer to the case in relation to this Scheme other than to note that there is **an appeal against the refusal of full permission for judicial review.***

That is wrong as there's no such thing as "full permission": you either get permission or not; if you don't, then you appeal the refusal of permission; but our situation was that we got permission, so our appeal was against the refusal of the substantive claim by the High Court. While the Applicant claims [REP7-015] that they made this clear in REP4-015, at no point did they use the word substantive to describe the claim.

Regardless of whether there was any intent or not, this wording was misleading which is what my letter of 14 December 2021 was attempting to point out.

I trust this helps clarify things and clears up any confusion.

Yours sincerely,



Chris Todd

Director