



Your ref: TR010039

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24 June 2022

Dear Mr Jackson,

**APPLICATION BY NATIONAL HIGHWAYS FOR AN ORDER GRANTING
DEVELOPMENT CONSENT FOR THE A47 WANSFORD TO SUTTON SCHEME
(TR010039)**

PROPOSED CHANGES TO APPLICATION

- 1 Further to the Applicant's letter dated 6 May 2022 (**AS-045**) and associated plans (**AS-046** and **AS-047**); the Examining Authority's ("ExA") Rule 17 letter dated 10 May 2022 (**PD-011**); the Applicant's response to the Rule 17 letter dated 20 May 2022 (**REP7-018**); the Rule 17 letter dated 24 May 2022 (**PD-013**); and the Applicant's Request for a Non-Material Change to the Application (**REP8-029**) ("Original Change Request"), the ExA issued a Rule 9 letter dated 21 June 2022 ("Rule 9 Letter") which rejected the Original Change Request.
- 2 The Applicant has considered carefully the ExA's helpful comments in the Rule 9 Letter, and has taken further legal advice. In particular, the Applicant has reconsidered the Deed of Grant dated 9 January 1976. As a result of that reconsideration, the Applicant submits a fresh non-material change request for proposed changes ("Updated Change Request").
- 3 The Updated Change Request is submitted in advance of Deadline 9, and the ExA is asked to exercise discretion to accept it into the Examination. The Applicant is conscious that the end of the Examination is fast approaching, but nevertheless, for the reasons set out in the Updated Change Request, the ExA is asked to consider the matters set out therein. As a result of this submission outside of formal deadlines the Applicant requests amendments to the Examination timetable, which are set out below.

THE APPLICANT'S RESPONSE TO THE RULE 9 LETTER

- 4 The Applicant's approach given the concerns expressed in the Rule 9 Letter is to submit an Updated Change Request (**TR010039/EXAM/9.38**), having made necessary amendments to the Original Change Request. A tracked version of the Original Change Request has been provided for convenience of the ExA, given that the Updated Change Request is a fresh application.
- 5 In order to avoid unnecessary repetition of documents and potential confusion, the Applicant continues to rely on supporting documents previously accepted into the Examination, as detailed below.
- 6 The Updated Change Request provides a detailed explanation of why the Applicant considers that the proposed changes are non-material. The Applicant is grateful for the ExA's confirmation that he considers that Changes One and Three would be non-material on their own. On that basis, the Applicant focusses on Change Two.
- 7 For completeness, there is insufficient time for the Applicant to extract Changes One and Three from the Original Change Request in order to make separate applications for non-material amendments, and hence the Updated Change Request once again requests the three proposed changes as a combined change.
- 8 In summary, the Applicant's view is:
 - a) There is no new land and the land within the Order Land required for proposed Change Two either cannot be considered as "additional land" as it was identified in the Book of Reference submitted with the Application, is land identified for temporary possession which is not compulsory acquisition or any new permanent land comprised in Change Two in particular benefits from the consent of all persons with an interest;
 - b) that the reference to "Unknown (in respect of Restrictive Covenants contained within a Deed of Grant dated 9 January 1976)" is incorrect, and the Book of Reference should be amended to reflect the true position. As was set out in the Applicant's Rule 17 response on 20 May 2022, the beneficiary of the Restrictive Covenant is Anglian Water Authority. The rights enjoyed by water authorities were transferred by the Water Act 1989 to successor companies, which in this case is Anglian Water Services Limited. Accordingly, the beneficiary of the Restrictive Covenant is not unknown: it is Anglian Water; and

- c) the proposed changes do not breach, nor have any prospect of breaching, the restrictive covenant, and the Applicant will not be extinguishing, suspending or interfering with the restrictive covenant. On that basis, it is not necessary to list the restrictive covenant in the Book of Reference. In fact, the proposed changes in the Updated Change Request seek to improve further the position of the beneficiary of the restrictive covenant, Anglian Water. Anglian Water has also been consulted on these changes.

CONSEQUENTIAL PROCEDURAL MATTERS

- 9 Deadline 9 (D9) is on Tuesday 28 June 2022, and the Applicant has noted the ExA's comments in respect of updated Examination documents in the Rule 9 Letter. Given the submission of the Updated Change Request out of deadline, resubmitting previous versions of the Examination documents in advance of the ExA's determination of the Updated Change Request may cause unnecessary confusion.
- 10 On that basis, the ExA is asked to impose a further deadline, 9A, on Friday 1 July 2022. For D9A, the Applicant proposes to either confirm Examination documents if the ExA approves the Updated Change Request; or, if the ExA rejects the Updated Change Request, or has made no determination by D9A, the Applicant will resubmit the relevant Examination documents reflecting the position without the requested changes.
- 11 The relevant Examination documents which would be submitted by the Applicant at D9A are:

Application Document Reference	Name of Document
2.2	Land Plans
2.3	Works Plans
2.4	Rights of Way Plans
2.6	General Arrangement Plans
3.1	Draft DCO
3.2	Explanatory Memorandum
4.1	Statement of Reasons
4.3	Book of Reference
6.8	Environmental Masterplan

- 12 The Applicant confirms that it will submit all other D9 documents in the usual way.

DOCUMENTS SUBMITTED WITH THE UPDATED CHANGE REQUEST

- 13 In support of the Updated Change Request, the Applicant submits the following documents:

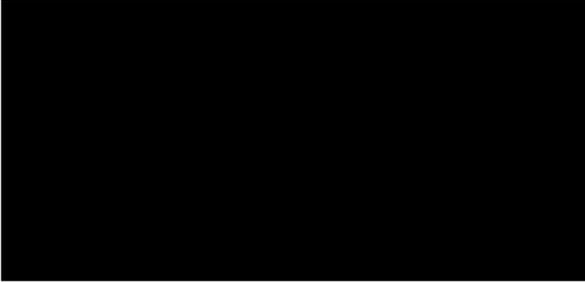
Application Document Reference	Name of Document	Revision number and changes from the Original Change Request
4.3	Book of Reference	Rev 3 – clean and tracked changes versions
9.38	Updated Request for a Non-Material Change to the Application	Rev 0 (A tracked changes version of the Original Change Request TR010039/EXAM/9.34 (REP8-029) has also been provided.

- 14 The following supporting documents have been accepted into the Examination, and new versions are not provided as there is no proposed change to these documents. Should the ExA prefer these documents to be resubmitted with updated covers and revision numbers for procedural reasons, the Applicant would be able to do so in short order:

Application Document Reference	Name of Document	Examination Document
2.2	Land Plans	REP8-002
2.3	Works Plans	REP8-003
2.4	Rights of Way Plans	REP8-004
2.6	General Arrangement Plans	REP8-005
3.1	Draft DCO	REP8-006
3.2	Explanatory Memorandum	REP8-008
4.1	Statement of Reasons	REP8-010
6.8	Environmental Masterplan	REP8-010
9.35	ES Addendum One	REP8-030

- 15 In respect of further relevant documents, the Applicant has provided the only recorded Deed of Grant dated 9 January 1976 as Annex B to the Updated Change Request (**TR010039/EXAM/9.38**), and plans showing the location of the Anglian Water tunnel referred to in the Deed of Grant as Annex D.

Yours sincerely,



Craig Stirzaker
Project Manager
National Highways