

A47 Wansford to Sutton Dualling

Scheme Number: TR010039

Volume 9

9.38 Updated Request for a Non-Material Change to the Application

Infrastructure Planning (Examination Procedure) Rules 2010

Planning Act 2008

June 2022

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Applications: Prescribed Forms and
Procedure) Regulations 2009**

The A47 Wansford to Sutton
Development Consent Order 202[x]

**9.38 UPDATED REQUEST FOR A NON-MATERIAL CHANGE
TO THE APPLICATION**

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| Author | A47 Wansford to Sutton Project Team, National Highways |

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1 INTRODUCTION

- 1.1.1 The application for a Development Consent Order ("**DCO**") for the proposed A47 Wansford to Sutton Scheme ("**the Scheme**") was submitted by National Highways ("**the Applicant**") on 5 July 2021. The application was accepted for Examination on 2 August 2021 and the Examination began on 12 January 2022.
- 1.1.2 By the Applicant's Notification for Proposed Changes to the Scheme dated 6 May 2022 (**AS-044**) the Applicant provided the details and background to the request for the proposed changes.
- 1.1.3 The Examining Authority ("**ExA**") requested further information on the Applicant's proposed changes by letter dated 10 May 2022 (**PD-011**). In the Applicant's Response to Rule 17 Letter (**REP7-018**) dated 20 May 2022 the Applicant provided further revised details of the Applicant's request for proposed changes to the Scheme.
- 1.1.4 In the ExA's Rule 17 and 8(3) letter dated 24 May 2022 (**PD-013**), the ExA requested further information on the Applicant's proposed changes and provided advice and guidance on the proposed changes. The Applicant made a Non-Material Change request application on 14 June 2022 ("**Original Change Request**") (**REP8-029**) and this was not accepted by the ExA on 21 June 2022. The principal reason was because Change 2 required additional land and with reference to "Unknown Persons" in respect of rights under a deed of grant dated 9 January 1976 ("**the Deed of Grant**") who needed to be notified. The ExA noted that there was not sufficient Examination time to comply with the Infrastructure Planning (Compulsory Acquisitions) Regulations 2010 (Regulations) ("**the CA Regulations**").
- 1.1.5 The Applicant has taken into account the ExA's guidance received to date and in particular the letter dated 21 June 2022. The Applicant has also carefully reconsidered the terms of the Deed of Grant, the plots of land in question and the applicable legislation. This document ("**Updated Change Request**") is the Applicant's additional formal request for a Non-Material Change to the DCO application.

2 EXECUTIVE SUMMARY

Reason 1: Additional land

- 2.1.1 This Updated Change Request begins with a summary of the Applicant's response to the ExA's principal reasons for not accepting the Original Change Request before putting forward full details of the proposed changes. For ease of visibility of those changes, an Overlay Plan showing the layout of the Original Change Request and the Updated Change Request is provided at **Annex A**.
- 2.1.2 The Updated Change Request (and the Original Change Request (**REP8-029**)) do not propose to introduce new land to the Scheme. Proposed Change 2, however, would involve a change from temporary possession to permanent acquisition in respect of some plots. Under the CA Regulations this would constitute "additional land" and Regulations 5-19 would be engaged unless the written consent of affected landowners or those with an interest in the land were obtained. As detailed in section 6 of this Updated Change Request, the Applicant has either (a) secured the written consent of the relevant landowners; (b) established that there is no

evidence of other interests in the relevant plots; or (c) demonstrated that the re-numbered plots for permanent acquisition were already included in the Book of Reference submitted with the DCO Application as permanent acquisition plots.

Reason 2: Deed of Grant in respect of "Unknown Persons" dated 9 January 1976

2.1.3 A copy of the Deed of Grant is provided at **Annex B** to this document. The Applicant has conducted further investigations as well as seeking further legal advice in relation to the Deed of Grant. The conclusion reached is that there are no "Unknown Persons" who would benefit from the rights under this particular deed; rather the beneficiary of those rights is named as Anglian Water Authority, whose successor in title is Anglian Water Services Limited ("**Anglian Water**"). The easement identified on the plan attached to the Deed of Grant is located approximately 1100m away from proposed Change 2 and the rights afforded to Anglian Water under the Deed of Grant will not be interfered with either at this location or along the continuation to the pipeline (for which no known formal easement is in place). All Anglian Water apparatus potentially affected by the Scheme was identified at the time of the DCO Application so that Anglian Water has been party to the consultation process throughout. Change 2 in fact offers Anglian Water greater protection for its apparatus than the original scheme design by moving the works further away. Anglian Water have also been consulted on these changes and no response was received.

3 FULL DETAILS OF THE PROPOSED CHANGES

3.1.1 The application for the proposed changes is supported by the documents listed in the table below:

| Doc No | Title | 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 previous document TR010039/EXAM/9.34 (REP8-029) has also been provided) |

3.1.2 In addition, the following documents accepted into the Examination in support of the Original Change Request (**REP8-029**) at Deadline 8, remain unchanged and are applicable to the Updated Change Request. The Applicant can provide new versions with updated covers and revision numbers if required by the ExA.

| Doc No | Title | Examination Document |
|--------|-------------|----------------------|
| 2.2 | Land Plans | REP8-002 |
| 2.3 | Works Plans | REP8-003 |

| Doc No | Title | Examination Document |
|--------|--|----------------------|
| 2.4 | Rights of Way and Access 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 | Environmental Statement (ES) Addendum One | REP8-030 |

- 3.1.3 This application is also supported by letters of consent from those parties with an interest in any additional land as a result of the proposed changes (see **Annex C**).
- 3.1.4 The Applicant is proposing a total of three discrete works changes with one resulting in a change to the Land Plans (**REP8-029**):
- 3.1.5 **Change One:** Alignment of the new link road from the A47 Wansford eastern roundabout to the new A47 westbound off slip from the dualled A47 (work no. 15) to be shifted to the north by a distance of approximately 14 metres (see revised Works Plans (**REP8-003**), General Arrangement Plans (**REP8-005**), and Rights of Ways and Access Plans (**REP8-004**), sheets 3). This is effectively 11 metres beyond the allowable limit of deviation provided for in the draft DCO (**REP8-006**). The realigned link road also realigns the shared cycle track and new permissive bridleway and provides for additional means of access to adjoining land as shown on the revised Rights of Way and Access Plans (**REP8-004**) sheet 3. The reason for the change is to reduce construction phasing requirements associated with utility diversions. The change therefore represents a more efficient interface between the Scheme and Anglian Water, Western Power Distribution, Gigaclear, Openreach, Vodaphone and GTT assets.
- 3.1.6 **Change Two:** Modification to the means of access alignment to Sacrewell Farm to avoid interface with Anglian Water assets as shown on the Overlay Plan at **Annex A** and on sheet 3 of the revised Land Plans (**REP8-002**) Works Plans (**REP8-003**), Rights of Way and Access Plans (**REP8-004**) and General Arrangement Plans (**REP8-005**). This layout improves the visibility at the access to Sacrewell Farm, addresses the ExA's query at Hearing Action Point 38 (**EV-021**) and the Applicant's initial response regarding use of a convex mirror to improve visibility in **REP5-020**. Please note as a result of Change Two, work number 23 of the submitted Works Plans is deleted but the work number is re-used to show new works as a result of Change One on the revised Works Plans (**REP8-003**) sheet 3. It is important to emphasise that no new land is required as part of the Updated Change Request as the Order limits have not changed. However, the status of some of the plots has changed –
- some "downgrading" of plots from permanent acquisition to temporary possession

- increase in area of temporary possession plots
- reduction in area of permanent acquisition plots
- partial change in some plots from temporary possession to permanent acquisition

all as detailed in paragraph 6.2 below.

3.1.7 **Change Three:** Shortening of the cycle route at the eastern extent of the Scheme by deleting the section of cycle track proposed on the northern frontage of Peterborough Road (SU15 to SU16 on the submitted Rights of Way Plans (previously **REP2-004**) sheet 7). The proposed cycle track will then start/finish at SU14 at Nene Way, which is a designated quiet route deemed suitable for use by pedestrians, cyclists and equestrians allowing cyclists to join and leave Peterborough Road at the Nene Way junction. This change will avoid the need for cyclists to cross Peterborough Road and join the eastbound carriageway in the vicinity of the existing bus layby. To facilitate pedestrian access between Nene Way and the existing bus stop, new sections of footway will be provided on both the northern and southern frontages of Peterborough Road. These changes will improve safety for cyclists and are shown on the revised Rights of Way and Access Plans (**REP8-004**) sheet 7.

3.1.8 As a result of Change Two, land for permanent acquisition and temporary possession is altered and shown on the revised Land Plans (**REP8-002**) Sheet 3. Further details on the proposed changes to the Land Plans (**REP8-002**) are set out below. As already indicated, no new land has been introduced to the Scheme.

4 RATIONALE FOR APPLICANT'S CONSIDERATION OF THE PROPOSED CHANGES AS NON-MATERIAL

- 4.1.1 The Applicant's review of the guidance on differences between Material and Non-Material applications are outlined in section 3 of the Applicant's Notification of intention to submit a Change Request (**AS-044**). The Applicant also noted in section 3 of **AS-044** that the proposed changes are unlikely to significantly affect the overall assessment and conclusions of likely significant effects presented within the submitted Environmental Statement ("**ES**").
- 4.1.2 The Applicant has now completed a full assessment of the ES as set out in ES Addendum One (**REP8-030**). After a rigorous assessment of each topic in the ES, the Applicant has found that both individually and in combination, the proposed changes to the Scheme do not result in any new or different likely significant effects compared to those found in the ES. This finding supports the Applicant's view that the proposed changes amount to a non-material change to the submitted application.

5 CONSULTATION

- 5.1.1 Since the Applicant considers that the proposed changes to the DCO application are non-material, consultation is not strictly necessary. However, the Applicant, in its quest to be as transparent and inclusive as possible, undertook a fourteen day consultation exercise as outlined in section 5 of the Applicant's Notification of intention to submit a Change Request (**AS-044**). The Applicant also added statutory undertakers as confirmed in the Applicant's response to Rule 17 letter (**REP7-018**). There were no substantive comments received as a result of the consultation exercise. In particular, no response was received from Anglian Water, including to a non-statutory consultation letter with details of the Updated Change Request sent to Anglian Water on 30 May 2022. Change 2 is designed to increase the distance between the Scheme works and any Anglian Water apparatus.

6 CHANGES TO LAND PLANS AND CONSENT FOR CHANGE

- 6.1.1 It is only in respect of Change 2 that the land plans have changed. In the Applicant's Notification of intention to submit a Change Request (**AS 044**) to the Scheme, dated 6 May 2022 the Applicant noted that it is
- ..." mindful that the enlargement of plot 3/3c land for permanent acquisition and concomitant reduction in the area of plot 3/2e and 3/2i for temporary possession amounts to the inclusion of 'additional land' within the DCO and is subject to the Infrastructure Planning (Compulsory Acquisitions) Regulations 2010 (Regulations). As mentioned above, National Highways intends to seek consent to the acquisition of the additional land from the landowners, the William Scott Abbott Trust and Riverford Organics. If that consent can be secured then Regulation 4 will apply and the procedure for the acquisition of additional land set out in Regulations 5 to 19 will not apply."*
- 6.1.2 In the Applicant's Response to the Rule 17 Letter (**REP7-018**) dated 20 May 2022, in response to the ExA's query whether further consent was required due to restrictive covenants contained within the Deed of Grant in favour of "Unknown Persons", the Applicant responded as follows:

*"The Applicant has reviewed the Land Plans (**REP5-002**) and notes that plot 3/2f and plot 3/3d are also affected by the change request but plot 3/2i is not affected. To summarise, the plots affected by the change request are as follows:*

Plot 3/2e for temporary possession: Currently 3430 sq m, proposed 2344 sq m

Plot 3/3d for temporary possession: Currently 1999 sq m, proposed 1494 sq m

Plot 3/2f for permanent acquisition: Currently 573 sq m, proposed 1660 sq m

Plot 3/3c for permanent acquisition: Currently 1495 sq m, now 2000 sq m

Plots 3/2e, 3/3d, 3/2f and 3/3c all fall within title numbers CB300287 and CB326797. The Applicant has reviewed the Deed of Grant and has established that it relates to an easement in favour of Anglian Water Authority (Office at Diploma House, Grammar School Walk, Huntingdon) and its successors in title. The Deed of Grant gives Anglian Water the rights and easements necessary to construct inspect use maintain alter cleanse replace remove or render unusable a tunnel for the passage of water of approximately 2.8m diameter subject to various covenants. The location of this easement for a large water pipe is to the east and north of the land subject to the change in permanent acquisition."

6.1.3 In the ExA's request for further information (**PD-013**) dated 24 May 2022, the ExA noted that

.."for Regulations 5 to 19 not to apply written agreement is required for all those "with an interest in the additional land" not just landowners. In this context this would include Anglian Water Limited.

In my view, to avoid this and to ensure clarity in this regard, rather than the approach suggested by the Applicant, the relevant plots on the Lands Plans should be subdivided. This would create some Land plots the subject of the covenant and others not subject to the covenant. New plots would be created and the Book of Reference would be amended accordingly. This would mean that written agreement could be obtained from all those with an interest in the land which would represent additional land as defined in the Infrastructure Planning (Compulsory Acquisitions) Regulations 2010."

6.1.4 Taking into account the ExA's guidance in **PD-013**, the Applicant has renumbered the plots which are subject to this Change Request in the Book of Reference (**TR0039/APP/4.3 Rev 3**). The relevant plots are shown on the revised Land Plans (**REP8-002**) Sheet 3 which also now shows the proposed changes to the access to Sacrewell Farm.

6.1.5 The renumbering exercise means that the plots affected by the Change 2 request (albeit all land is within the original Order Limits) are as follows:

3/2c – was 19003.17 sq m, now 22009.08 sq m – additional temporary possession land by including some land which was previously permanent

3/2d – was 7596sq m, now 5211sq m – reduced permanent acquisition land

3/2e – was 2343.91 sq m, now 2053.52 sq m – reduced temporary possession land

3/2f – was 1659.63 sq m, now 1263.34 sq m – reduced permanent acquisition land

3/2g – was 134.96 sq m, now 320.00 sq m – additional permanent acquisition land (Note: previous location of 3/2g is now incorporated in 3/3g and 3/2i both now for temporary possession – see below)

3/2i – was 11910.57 sq m, now 11725.18 sq m – reduced temporary possession land

3/3c – was 1999.83 sq m, now 845.27 sq m – reduced permanent acquisition land. (Note: New plot 3/3c has changed location and previous plot 3/3c is now incorporated in plot 3/3g for temporary possession)

3/3d – was 1494.33 sq m, now 1414.58 sq m – reduced temporary possession land.

3/3f – was 188.08 sq m, now 186.45 sq m – reduced permanent acquisition land

3/3g – 4.31 sq m, now 1240.24 sq m – additional temporary possession land which was previously permanent acquisition land within old plot 3/3c

- 6.1.6 In the Original Change Request (**REP8-029**) the only plots stated to be subject to the Anglian Water easement provided in the Deed of Grant (**Annex B**) following the plot renumbering were temporary possession plots 3/2i and 3/3g. Plot 3/2i was reduced in area from the extent in the Application for the DCO and so cannot be described as additional land for the purposes of requiring consent under Regulation. 4. Moreover, part of new plots 3/2i and 3/3g were previously contained within the area of plots 3/3c and 3/2g land for permanent compulsory acquisition in the Land Plans (**REP5-002**) and in the Book of Reference (**REP3-009**). For the purposes of Regulation 4 of the CA Regulations, "additional land" means "land which it is proposed shall be subject to compulsory acquisition and which was not identified in the book of reference submitted with the application as land".
- 6.1.7 Both plots 3/3c and 3/2g were already identified in the Applicant's Book of Reference submitted with the Application (**APP-022**) as land subject to compulsory acquisition and the Applicant's view therefore is that no consent of Anglian Water is required now since they were notified of the Application when it was made. It is also not considered by the Applicant to be "additional land". This is because the Applicant considers that any land which is subject to proposed temporary possession cannot be considered as "additional land" that would trigger the provisions of the CA Regulations as it is not compulsory acquisition of land; rather it is temporary possession of land only. Having regard to the PINS Advice Note 16 para 4.1.5 the CA Regulations would not apply and on that basis it is submitted that there is no material change in respect of any interest of Anglian Water.
- 6.1.8 The Applicant has also revised the Book of Reference (now **TR010039/APP/4.3 Rev 3**) to take account of the above plot number changes. It has clarified that the Anglian Water category 2 interest in the Book of Reference only relates to plots 3/2i and 3/3g by virtue its pipeline. Having further reviewed the terms of the Deed of Grant and having obtained additional legal advice the Applicant considers that the restrictive covenants which were referred to in the reference to a "Unknown Persons" (in respect of Restrictive Covenants contained within a Deed of Grant dated 9 January 1976" in the Book of Reference (**REP8-012**)) are no longer relevant for the following reasons:
- the Applicant has revised its assessment and established that the only beneficiary of the restrictive covenant is Anglian Water Services Limited as

successor in title to Anglian Water Authority and they have already been notified of the Application. All references to "Unknown Persons" have now been removed.

- Anglian Water Services Limited were listed in Part 3 of the Book of Reference submitted with the Application (Part 3 is required to list, by virtue of paragraph 7(1)(c) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, "*names of all those entitled to enjoy easements or other private rights over land (including private rights of navigation over water) which it is proposed shall be extinguished, suspended or interfered with*"). The restrictive covenants in the Deed of Grant prevent the boring or sinking of any borehole within 13 metres of the tunnel belonging to Anglian Water Authority and also prevent any activity on the land which is calculated or likely to cause damage or injury to the tunnel.

6.1.9 The Applicant is not carrying out any works within 13 metres of the tunnel as defined in the Deed of Grant. The Order Limits boundary is approximately 1100 metres away from the tunnel shown on the plan attached to the Deed of Grant and the Applicant will not be extinguishing, suspending or interfering with that restrictive covenant. Accordingly, it is not necessary for the restrictive covenant to be listed in the updated Book of Reference (**TR010039/APP/4.3 Rev 3**). A further plan showing the distance between the Anglian Water tunnel (as identified in the Deed of Grant) and proposed Change 2 is provided at **Annex D**.

6.1.10 Turning to the other interests in any additional land comprising plot 3/3g, the Applicant has obtained the consent to the proposed changes from those parties who do have an interest in the additional land, namely, the William Scott Abbot Trust and Riverford Organics. Please see letters dated 17 May and 8 June 2022 signed by both the William Scott Abbot Trust and Riverford Organics at **Annex C**. As a result, and having regard once again to Advice Note 16 para 4.1.5, the CA Regulations would not apply as all consents from those with an interest in the land have been secured and it is submitted that there is therefore no material change in respect of any interest of the landowners.

7 CONCLUSION

7.1.1 The Applicant is of the firm view that this application for a change to the submitted application as outlined in section 3 above is relatively minor in nature. The Applicant has provided evidence in the form of an Addendum to the ES (**REP8-030**) that both individually and in combination, the proposed changes to the Scheme do not result in any new or different likely significant effects compared to those found in the ES.

7.1.2 Moreover, the Applicant has considered the regulations in the Infrastructure Planning (Compulsory Acquisitions) Regulations 2010 and is of the view that Regulation 4 is not engaged since all persons "with an interest in the additional land" consent to the changes to land to which authorisation of compulsory acquisition relates.

7.1.3 The Applicant therefore requests that this application for a Non-Material Change to the DCO Application is accepted by the ExA.

ANNEXES

ANNEX A - OVERLAY PLAN SHOWING LAYOUT OF SACREWELL FARM ACCESS (AS SHOWN ON SHEET 3 OF THE LAND PLANS (REP5-002)) AND UPDATED CHANGE REQUEST

ANNEX B - DEED OF GRANT

These are the notes referred to on the following official copy

Title Number CB300287

The electronic official copy of the document follows this message.

This copy may not be the same size as the original.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.



This Deed of Grant

is made the Ninth day of January One

thousand nine hundred and seventy Six BETWEEN THE ROYAL AGRICULTURAL SOCIETY OF ENGLAND whose Office is situate at 35 Belgrave Square in the County of London and HOWARD VICTOR FOX of [redacted] in the County of Warwick (hereinafter called "the Grantors" which expression shall where the context so admits include their successors in title) of the first part the said THE ROYAL AGRICULTURAL SOCIETY OF ENGLAND (hereinafter called "the Mortgagee") of the second part and ANGLIAN WATER AUTHORITY whose Principal Office is situate at Diploma House Grammar School Walk Huntingdon in the County of Cambridge (hereinafter called "the Authority" which expression shall where the context so admits include their successors in title) of the third part

WHEREAS :-

- (1) The Grantors are seised in fee simple in possession of (inter alia) the land referred to in the First Schedule hereto (hereinafter called "the said land") upon trust to sell the same or any part or parts thereof with power to postpone the sale thereof and to hold the net rents and profits until sale upon the trusts and with and subject to the powers and provisions contained in and declared by a Declaration of Trust dated the Sixteenth day of December One thousand nine hundred and sixty three and made between Mary Townsend Abbott of the one part and Sir Walter Raymond Burrell Guy Blewitt The Right Honourable the Earl of Radnor and The Right Honourable Wykeham Stanley Baron Cornwallis of the other part subject only to the Mortgage next hereinafter recited but otherwise free from incumbrances
- (2) By a Mortgage (hereinafter called "the Mortgage") dated the First day of June One thousand nine hundred and sixty four and made between the said Sir Walter Raymond Burrell Guy Blewitt The Right Honourable the Earl of Radnor and The Right Honourable Wykeham Stanley Baron Cornwallis of the one part and the Mortgagee (then and therein called Royal Agricultural Society of England) of the other part the said property was demised to the Mortgagee for the term of three thousand years from the date thereof to secure the payment to the Mortgagee of the principal sum of Twenty-nine thousand five hundred and seventy Pounds ten shillings and two pence and interest thereon as therein mentioned
- (3) The said principal sum in respect of the mortgage is still owing but all interest has been paid in respect thereof to the date hereof
- (4) The Authority in exercise of the powers conferred upon them by the Welland and Nene (Empingham Reservoir) and Mid-Northamptonshire Water Act 1970 desire to construct and thereafter maintain a tunnel of an approximate internal



Photo Copy

diameter of 2.8 metres in the said land

(5) The Grantors have agreed to grant to the Authority the rights and easement hereinafter mentioned and the Authority have agreed to enter into the covenants hereinafter contained and it has been further agreed that the Mortgagee shall join in this Deed in manner hereinafter appearing

N O W THIS DEED W I T N E S S E T H as follows :-

1. I N pursuance of the said agreement and in consideration of the sum of ONE POUND paid by the Authority to the Grantors (the receipt whereof the Grantors hereby acknowledge) and of the covenants on the part of the Authority hereinafter contained the Grantors as TRUSTEES (and to the intent that the rights and easement hereby granted shall be appurtenant to all such lands and hereditaments used and occupied by the Authority for the purpose of its statutory undertaking as are accommodated by the said rights and easement and to each and every part of such lands and hereditaments) hereby grant and the Mortgagee as MORTGAGEE hereby SURRENDERS and RELEASES unto the Authority the right to construct inspect use maintain alter cleanse replace remove or render unusable a tunnel for the passage of water with an approximate internal diameter of 2.8 metres below the surface of the said land in the approximate position indicated by a continuous red line on the plan annexed hereto (hereinafter called "the said tunnel") T O H O L D the same unto the Authority in fee simple discharged from all claims under the recited mortgage and to the intent that the term subsisting thereunder shall as respects the said land through which the said tunnel shall be constructed merge and be extinguished

2. T H E Authority (to the intent and so as to bind the rights and easement hereby granted into whosoever hands the same may come and to benefit and protect the said land and every part thereof) hereby COVENANTS with the Grantors as follows :-

- (1) In exercising the rights and easement hereby granted the Authority shall take all reasonable precautions to avoid obstruction to or interference with the user of the said land or damage or injury thereto
- (2) The Authority shall keep the Grantors indemnified against all actions claims or demands arising by reason of the exercise of the rights and easement hereby granted or of any failure to keep the said tunnel in proper repair and condition (except any such actions claims or demands as may be occasioned by the default or wrongful act of the Grantors their servants agents or licences) provided that the Grantors shall not settle or compromise any such action claim or demand without the consent of the Authority first had and obtained
- (3) The Authority shall pay all rates and taxes (if any) which may be

imposed or charged in respect of the rights and easement hereby granted which are properly payable and due from the Authority at law

3. THE Grantors (to the intent and so as to bind the said land and every part thereof into whosoever hands the same may come and to benefit and protect the rights and easement hereby granted) hereby jointly and severally

COVENANT with the Authority as follows :-

- (1) The Grantors shall not cause or permit any boring to be carried out or any borehole to be sunk in the surface of the said land within a distance of 13 metres measured in any direction from the said continuous red line marked on the plan annexed hereto and also shall not do or cause or permit to be done on the said land any other thing calculated or likely to cause damage or injury to the said tunnel or any part thereof and will take all reasonable necessary and proper precautions to prevent any such damage or injury
- (2) If at any time within a period of 80 years from the date of this Deed (which said period of 80 years shall be the perpetuity period applicable hereto) the Grantors shall enter into any lease or tenancy agreement comprising the said land they shall procure from the lessee or tenant of any such lease or tenancy agreement covenants identical in form to those contained in this Clause

4. THE Mortgagee hereby acknowledges the right of the Authority to the production and delivery of copies of the documents more particularly mentioned in the Second Schedule hereto and the Grantors for themselves and their successors in title hereby jointly and severally covenant with the Authority that they the Grantors or their successors in title will so soon as any of the said documents shall come into their possession give to the Authority or its successors in title an undertaking for the safe custody of the same and that in the meantime and until such undertaking shall have been given every person for the time being having the possession or control of the said documents will keep the same whole uncanceled and undefaced unless prevented from so doing by fire or other inevitable accident

5. ANY dispute or difference arising under the provisions of Clauses 2 and 3 hereof shall be determined in default of agreement between the parties hereto by a single arbitrator to be agreed upon between them or failing such agreement by a single arbitrator to be appointed by the President for the time being of the Royal Institution of Chartered Surveyors in accordance with the provisions of the Arbitration Act 1950 or any statutory modification or re-enactment thereof for the time being in force

I N W I T N E S S whereof the said The Royal Agricultural Society of England have caused their Common Seal to be hereunto affixed and the said

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Howard Victor Fox has hereunto set his hand and seal and the Mortgagee and the Authority have caused their respective Common Seals to be hereunto affixed the day and year first before written—

—THE FIRST SCHEDULE before referred to—

A L L THOSE pieces or parcels of land situate in the Parish of Thornhaugh in the County of Cambridge comprising the Enclosures respectively numbered 1 2 3 5 6 9 10 11 12 13 37 38 39 40 Pt.40 41 42 43 67 and 70 on the Ordnance Survey Map containing in the whole an area of 232 acres 2 roods and 27 perches or thereabouts as the same was more particularly comprised in and conveyed by an Indenture dated the Eleventh day of October One thousand nine hundred and nineteen and made between George Egerton Hicks and Henry Foster Young of the one part and Isabella Abbott of the other part and delineated and described on the plan drawn thereon and thereon edged with pink—

—THE SECOND SCHEDULE before referred to—

| | | |
|---------------------|----------------------------|--|
| 11th October 1919 | <u>INDENTURE</u> | George Egerton Hicks and Henry Foster Young (1) Isabella Abbott (2) |
| 2nd April 1957 | <u>ASSENT</u> | George Wyman Abbott and William Scott Abbott (1) William Scott Abbott (2) |
| 15th December 1963 | <u>ASSENT</u> | Mary Townsend Abbott and David Oldrid Powell (1) Mary Townsend Abbott (2) |
| 31st December 1963 | <u>CONVEYANCE</u> | Mary Townsend Abbott (1) Sir Walter Raymond Burrell Guy Blewitt The Right Honourable The Earl of Radnor and The Right Honourable Wykeham Stanley Baron Cornwallis (2) |
| 1st June 1964 | <u>MORTGAGE</u> | Sir Walter Raymond Burrell Guy Blewitt The Right Honourable The Earl of Radnor and The Right Honourable Wykeham Stanley Baron Cornwallis (1) Royal Agricultural Society of England (2) |
| 7th December 1967 | <u>DEED OF APPOINTMENT</u> | Sir Walter Raymond Burrell Guy Blewitt The Right Honourable The Earl of Radnor and The Right Honourable Wykeham Stanley Baron Cornwallis (1) Guy Blewitt The Right Honourable The Earl of Radnor and The Right Honourable Wykeham Stanley Baron Cornwallis (2) Sir Peter McClintock Greenwell The Right Honourable Ailwyn Edward Baron de Ramsey and Francis Windgate William Pemberton (3) Sir Walter Raymond Burrell (4) and Royal Agricultural Society of England (5) |
| 23rd September 1970 | <u>DEED OF APPOINTMENT</u> | Sir Walter Raymond Burrell Sir Peter McClintock Greenwell The Right Honour- able Ailwyn Edward Baron de Ramsey and Francis Windgate William Pemberton (1) and Royal Agricultural Society of England (2) |
| 15th January 1975 | <u>DEED OF APPOINTMENT</u> | The Royal Agricultural Society of England (1) and Howard Victor Fox (2) |

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THE COMMON SEAL of the Royal Agricultural)
Society of England was hereunto affixed)
in the presence of :--)

Mrs M. M. Patterson
54 B Grove Street,
Leamington Spa.
Secretary

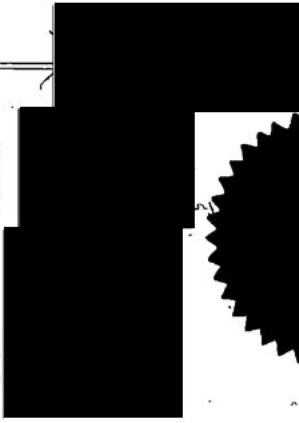
SIGNED SEALED AND DELIVERED by the said)
Howard Victor Fox in the presence of :--)

Mrs M. M. Patterson
54 B Grove Street,
Leamington Spa.
Secretary

3
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THE COMMON SEAL of Anglian Water Authority)
was hereunto affixed in the presence of :--)

h

DIRECTOR OF ADMINISTRATION

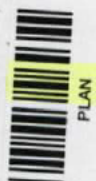
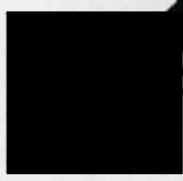


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WILLIAM SCOTT ABBOTT TRUST

DRG NO E29/L



ANNEX C - LETTERS SENT TO RIVERFORD ORGANICS AND WILLIAM SCOTT ABBOTT TRUST

Lee Scowen
William Scott Abbot Trust
Sacrewell Farm
Thornhaugh
Peterborough
PE8 6HJ

Craig Stirzaker
Highways England
Woodlands
Manton Lane
Bedford MK41 7LW

17th May 2022

Dear Mr Scowen,

**A47 Wansford to Sutton Development Consent Order
Request for a non-material change to the application**

Further to our recent meeting on Thursday 5th May to discuss changes to the Wansford scheme in regard to the entrance to Sacrewell Farm, I am writing to you to request your formal consent for the proposed change.

This consent will then be submitted to the examination for the Examining Authority ("ExA") to consider and make a decision on if the proposed change is accepted.

To be clear, consent would allow National Highways to have powers to acquire compulsorily the interest it requires to realign the Sacrewell Farm entrance from the original proposals should the change be accepted and the Development Consent Order granted, however we will continue to work to reach an agreement through the District Valuer Services (DVS) in regards to all transactions with the William Scott Abbot Trust.

Summary of Changes

The proposed change in regard to the Sacrewell Farm entrance is as follows:

Modification to the means of access alignment to Sacrewell Farm to avoid interface with Anglian Water and other utility assets running along the new slip road from the petrol station; which it is proposed is to be re-aligned 14 metres to the north to avoid the utility connections. These changes are shown on drawing HE551494-GTY-HKF-000-DR-CH-31003. This layout improves the visibility at the access to Sacrewell Farm and addresses one of the ExA's queries during the examination regarding the access and National Highway's initial response which was a proposal to use a convex mirror to improve visibility. This will not now be required.

The plots to be affected by the proposed change are 3/2f, 3/2e, 3/3c and 3/3d as shown on the Land Plan. The freehold title for the land is held by Sacrewell Farm (CB300287 / CB326797)

The tenant for the land is Riverford Organic Farmers limited

Anglian Water also has the benefit of an easement and covenants for the large diameter water mains to the east and north of the land affected by the proposed change. Anglian Water's interest is therefore not affected by the change.

Relevant documentation (annexed to letter)

- General arrangement drawing HE551494-GTY-HKF-000-DR-CH-31003 showing proposed change to Sacrewell Farm entrance alignment and the re-aligned slip road
- Proposed Land Plan amendment to parcels 3/2f, 3/2e, 3/3c and 3/3d
- Sheet 3 of the currently submitted Land Plan to compare the plot amendments

What is required of you

You will see at the bottom of this correspondence an opportunity for you to sign and return this correspondence, indicating that you consent to the proposed changes. This is required under Section 123 of the Planning Act 2008 – where a change regarding compulsory acquisition is anticipated after an application has been made to the Secretary of State, then the applicant must demonstrate that all parties consent to that change or that the procedure under the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 has been followed.

Concluding Remarks

I hope that the information provided with this correspondence is sufficient for you to confirm that you consent to the proposed change to the Sacrewell Farm entrance alignment.

If you have any further questions, please do not hesitate to contact me. I would be grateful if you could indicate your position as soon as possible, ideally by signing a copy of this correspondence and returning it to me.

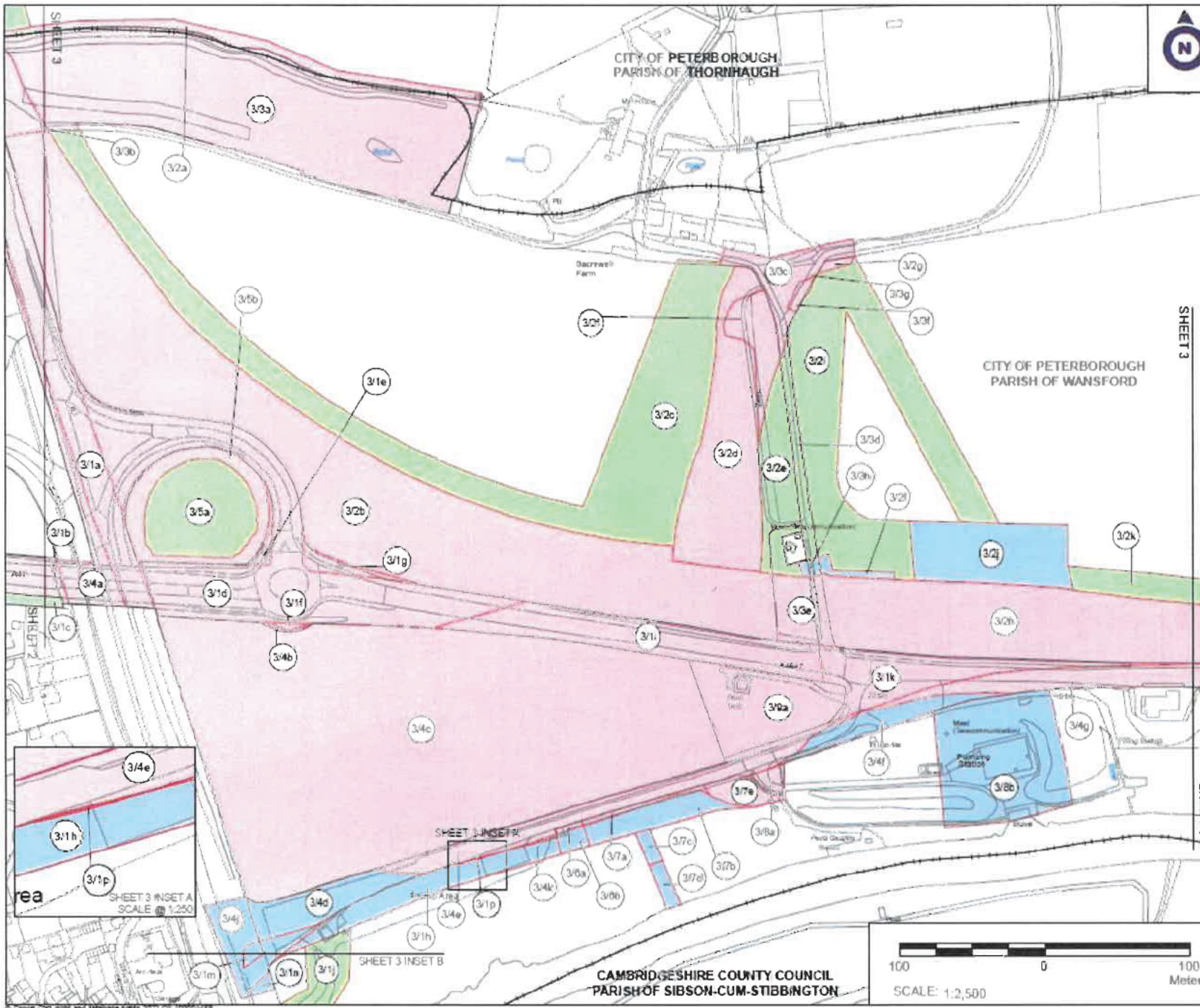
Your sincerely



Craig Stirzaker
Project Manager

Highways England | Woodlands | Manton Lane | Bedford | MK41 7LW

Web: 



NOTES

1. ALL DIMENSIONS ARE IN METRES UNLESS STATED OTHERWISE.
2. EACH PLOT SHOWN ON THE LAND PLANS IS SHOWN ON A SINGLE SHEET AND NO PLOT STRADDLES TWO OR MORE SHEETS, WHERE A PLOT MEETS A CUT LINE, THAT CUT LINE IS CO-EXTENSIVE WITH PLOT BOUNDARY.
3. ALL EASEMENTS, SERVITUDES AND PRIVATE RIGHTS ARE PROPOSED TO BE EXTINGUISHED ON LAND COLOURED PINK ON THESE LAND PLANS UNLESS STATED OTHERWISE IN THE BOOK OF REFERENCE. ALL EASEMENTS, SERVITUDES AND PRIVATE RIGHTS ARE PROPOSED TO BE EXTINGUISHED, SO FAR AS THEIR CONTINUED EXISTENCE WOULD BE INCOMPATIBLE WITH THE EXERCISE OF THE RIGHTS AND RESTRICTIVE TERMS PROPOSED TO BE ACQUIRED BY THE UNDERTAKER ON LAND COLOURED BLUE ON THESE LAND PLANS UNLESS STATED OTHERWISE IN THE BOOK OF REFERENCE. ALL EASEMENTS, SERVITUDES AND PRIVATE RIGHTS ARE PROPOSED TO BE SUSPENDED WHILE THE UNDERTAKER IS IN TEMPORARY POSSESSION OF THE LAND COLOURED GREEN ON THESE LAND PLANS UNLESS STATED OTHERWISE IN THE BOOK OF REFERENCE.
4. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL OTHER PLANS AND DOCUMENTATION, IN PARTICULAR THE WORKS PLANS AND THE BOOK OF REFERENCE.

LEGEND

- ORDER LIMITS
- PLOT REFERENCE NUMBER (REFER TO BOOK OF REFERENCE FOR FURTHER INFORMATION)
- EXISTING PUBLIC RIGHT OF WAY
- EXISTING EASEMENT
- LAND TO BE ACQUIRED PERMANENTLY
- LAND TO BE USED TEMPORARILY
- LAND TO BE USED TEMPORARILY AND RIGHTS TO BE ACQUIRED PERMANENTLY

| | | | | |
|------------------|----|-------|---------|-------|
| Printed on | By | Drawn | Checked | Scale |
| | AP | JP | | |
| Revised issue | By | Drawn | Checked | Date |
| | AP | JP | | |
| Revision Details | By | Drawn | Checked | Date |
| | | | | |

DCO APPLICATION

Client: Highways England

Development Consent Order Number: TR010039

Project Title: A47 WANSFORD TO SUTTON

Development Consent Order Drawing Number: TR010039/APP/2.2(c)

Drawing Title: LAND PLANS REGULATION 5(2)(I) SHEET 3 OF 7

| | | | |
|-------------------------|--------------|----------------|----------|
| Designed | Drawn | Checked | Date |
| | MJC | JF | 08/05/22 |
| Initial Project Number: | Availability | DCO Submission | |
| 003182-1-148p | | | |
| Scale @ A1 | Date | Project Title | |
| 1:2,500 | | | |

THIS DOCUMENT HAS BEEN PREPARED PURSUANT TO AN AGREEMENT SUBJECT TO THE TERMS OF CAPTIVE JOHNS AGREEMENT BY ITS CLIENT, CAPTIVE JOHNS, ACCEPTS NO LIABILITY FOR ANY USE OF THIS DOCUMENT OTHER THAN BY ITS ORIGINAL CLIENT OR FOR ANY OTHER PURPOSE. CAPTIVE JOHNS EXPRESSLY AGREES TO INDEMNIFY, DEFEND AND HOLD CAPTIVE JOHNS HARMLESS FROM THE PURPOSES FOR WHICH IT WAS PREPARED AND PROVIDED.

Drawing Number: HE551404
GTY-LL0-000-DR-BL-30003

Sheet: P02

I Lee Scowen on behalf of William Scott Abbott Trust can confirm that:

- (a) I have read and understood the contents of this correspondence; and
- (b) On behalf of William Scott Abbott Trust I am authorised to confirm that William Scott Abbott Trust consents to National Highways amending the land plan and book of reference submitted with its application for the A47 Wansford to Sutton Development Consent Order to allow for its compulsory acquisition of land to realign the proposed Sacrewell Farm entrance provided by the scheme.

Signed .. 
Authorised on behalf of William Scott Abbott Trust

Lee Scowen
William Scott Abbot Trust
Sacrewell Farm
Thornhaugh
Peterborough
PE8 6HJ

Craig Stirzaker
Highways England
Woodlands
Manton Lane
Bedford MK41 7LW

8th June 2022

Dear Mr Scowen,

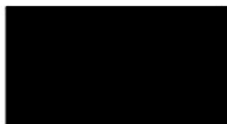
**A47 Wansford to Sutton Development Consent Order
Request for a non-material change to the application**

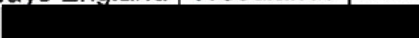
Many thanks for returning the letter I sent to you dated 17 May 2022 with your consent for the proposed changes to the land plan supporting the proposed changes to the DCO application that National Highways wishes to make. We have now altered the proposed land plan slightly, re numbered the plots and identified the plots on a base plan showing the proposed changes.

Please could you re confirm that you are in agreement with the attached revised land plan to support the proposed changes to the application as a replacement to the land plan I sent you on 17 May 2022 by signing and returning this letter with your consent.

Yours sincerely etc

Your sincerely



Craig Stirzaker
Project Manager
Highways England | Woodlands | Manton Lane | Bedford | MK41 7LW
Web: 

On behalf of William Scott Abbot Trust and with reference to consent previously given, I am authorised to confirm that William Scott Abbot Trust consents to amending the land plan in accordance with that attached hereto.

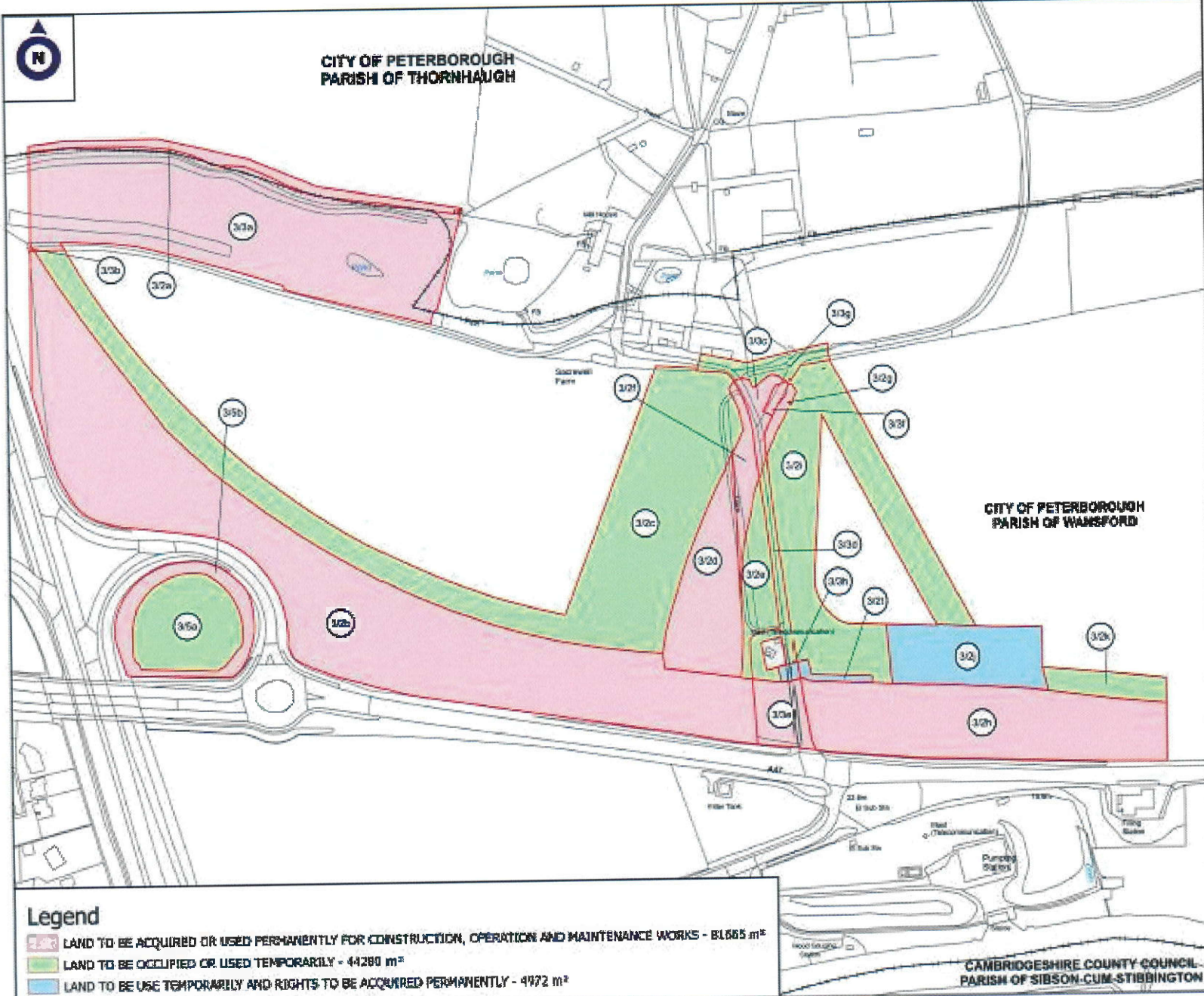
Signed: [REDACTED] FOR SAVILLS (UK) LTD
AS MANAGING AGENT

Authorised on behalf of William Scott Abbot Trust



CITY OF PETERBOROUGH
PARISH OF THORNHAUGH

CITY OF PETERBOROUGH
PARISH OF WANSFORD



PLOT AREAS

- 3/2a: 1755 m²
- 3/2b: 34605 m²
- 3/2c: 22008 m²
- 3/2d: 5211 m²
- 3/2e: 2054 m²
- 3/2f: 1283 m²
- 3/2g: 320 m²
- 3/2h: 12197 m²
- 3/2i: 11725 m²
- 3/2j: 4543 m²
- 3/2k: 1458 m²
- 3/2l: 302 m²
- 3/2m: 21313 m²
- 3/2n: 9 m²
- 3/2o: 845 m²
- 3/2p: 1415 m²
- 3/2q: 1670 m²
- 3/2r: 126 m²
- 3/2s: 1240 m²
- 3/2t: 157 m²
- 3/5a: 4381 m²
- 3/5b: 2291 m²

Client
Highways England



Project Title

**A47 WANSFORD
TO SUTTON**

Drawing Title

**OFFICIAL CUSTODIAN FOR
CHARITIES ON BEHALF OF THE
TRUSTEES OF THE WILLIAM SCOTT
ABBOTT TRUST
AGREEMENT PLAN
REVISION: P03**

| | | | |
|-------------------------|------------|---------------|-----|
| Designed | Drawn | Checked | DSB |
| Approved Project Number | Subsidiary | SCC Reference | |
| Scale @ A2 | Date | Whole Day | |
| 1:2,500 | | | |



SCALE: 1:2,500

Legend

- LAND TO BE ACQUIRED OR USED PERMANENTLY FOR CONSTRUCTION, OPERATION AND MAINTENANCE WORKS - 81585 m²
- LAND TO BE OCCUPIED OR USED TEMPORARILY - 44280 m²
- LAND TO BE USE TEMPORARILY AND RIGHTS TO BE ACQUIRED PERMANENTLY - 4972 m²

CAMBRIDGESHIRE COUNTY COUNCIL
PARISH OF SIBSON-CUM-STIBBINGTON

Nic Shaw
Riverford Organic Farmers Limited
Wash Barn
Buckfastleigh
TQ11 0JU

Craig Stirzaker
Highways England
Woodlands
Manton Lane
Bedford MK41 7LW

17th May 2022

Dear Mr Shaw,

**A47 Wansford to Sutton Development Consent Order
Request for a non-material change to the application**

Further to our recent phone call on 16th May to discuss changes to the Wansford scheme in regard to the entrance to Sacrewell Farm, I am writing to you to request your formal consent for the proposed change.

This consent will then be submitted to the examination for the Examining Authority ("ExA") to consider and make a decision on if the proposed change is accepted.

To be clear, consent would allow National Highways to have powers to acquire compulsorily the interest it requires to realign the Sacrewell Farm entrance from the original proposals should the change be accepted, and the Development Consent Order granted, however we will continue to work to reach an agreement through the District Valuer Services (DVS) in regards to all transactions with the Riverford Organics.

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The plots to be affected by the proposed change are 3/2f, 3/2e, 3/3c and 3/3d as shown on the Land Plan. The freehold title for the land is held by William Scott Abbot Trust the leasehold title by Riverford Organic Farmers Limited (CB300287 / CB326797). We have already met with Mr Scowen of the Trust who has agreed in principle to the change???

I Nic Shaw on behalf of Riverford Organic Farmers Limited can confirm that:

- (a) I have read and understood the contents of this correspondence; and
- (b) On behalf of Riverford Organic Farmers Limited I am authorised to confirm that Riverford Organic Farmers Limited consents to National Highways amending the land plan and book of reference submitted with its application for the A47 Wansford to Sutton Development Consent Order to allow for its compulsory acquisition of land to realign the proposed Sacrewell Farm entrance provided by the scheme.

Signed



Authorised on behalf of Riverford Organic Farmers Limited

" WITHOUT PREJUDICE AND SUBJECT TO THE LANDOWNERS
AGREEMENT " NS.

Nic Shaw
Riverford Organic Farmers Limited
Wash Barn
Buckfastleigh
TQ11 0JU

Craig Stirzaker
Highways England
Woodlands
Manton Lane
Bedford MK41 7LW

8th June 2022

Dear Mr Shaw,

**A47 Wansford to Sutton Development Consent Order
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Please could you re confirm that you are in agreement with the attached revised land plan to support the proposed changes to the application as a replacement to the land plan I sent you on 17 May 2022 by signing and returning this letter with your consent.

Your sincerely



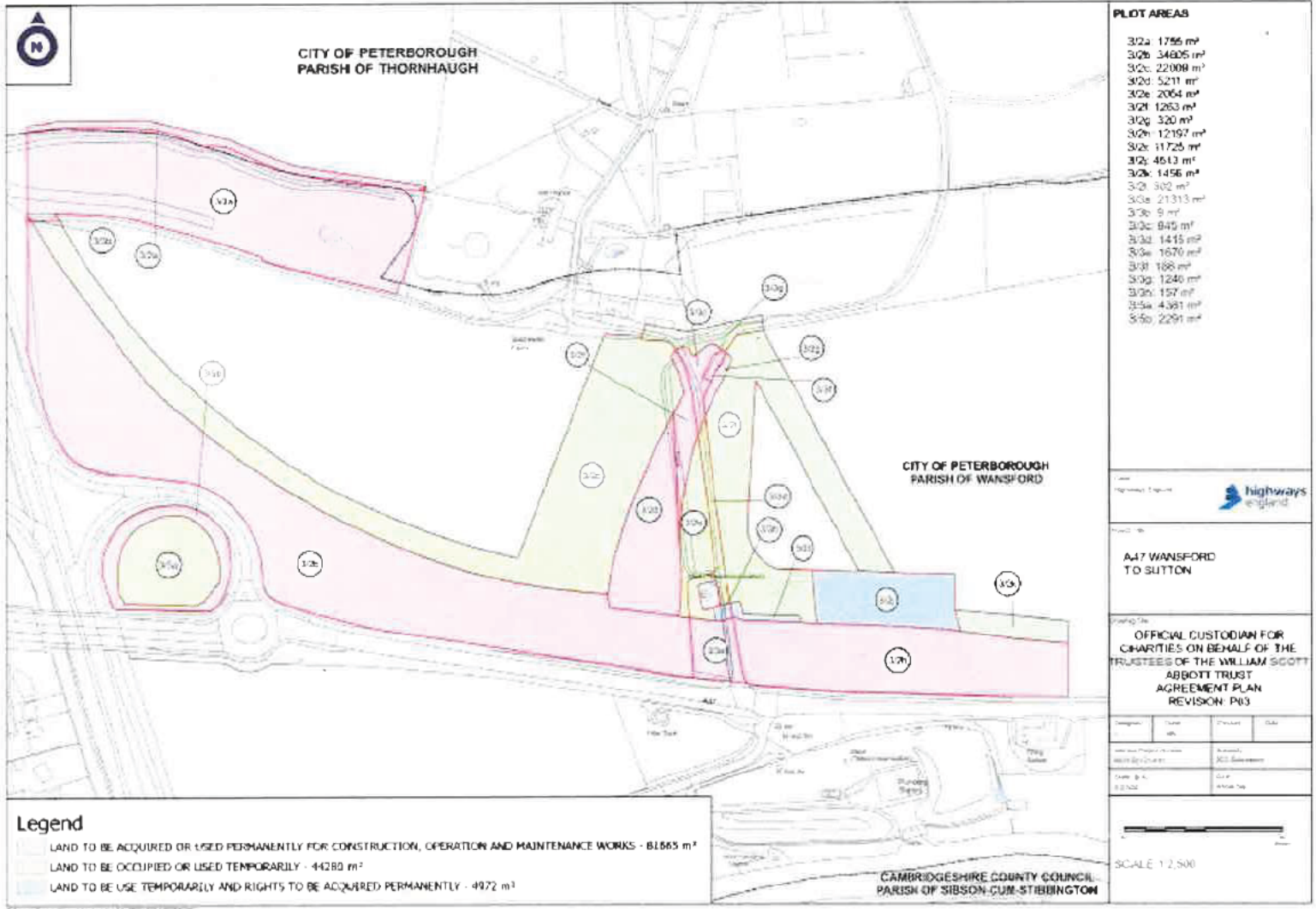
Craig Stirzaker
Project Manager

Highways England | Woodlands | Manton Lane | Bedford | MK41 7LW
Web: 

On behalf of Riverford Organic Farmers Limited and with reference to consent previously given, I am authorised to confirm that Riverford Organic Farmers Limited consents to amending the land plan in accordance with that attached hereto.



Signed ...
Authorised on behalf of Riverford Organic Farmers Limited



CITY OF PETERBOROUGH
PARISH OF THORNHAUGH

CITY OF PETERBOROUGH
PARISH OF WANSFORD

CAMBRIDGESHIRE COUNTY COUNCIL
PARISH OF SIBSON-CUM-STIBBINGTON

PLOT AREAS

- 3/2a 1756 m²
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- 3/2u 4381 m²
- 3/2v 2291 m²

Highways England

A47 WANSFORD
TO SUTTON

OFFICIAL CUSTODIAN FOR
CHARITIES ON BEHALF OF THE
TRUSTEES OF THE WILLIAM SCOTT
ABBOTT TRUST
AGREEMENT PLAN
REVISION: P03

Legend

- LAND TO BE ACQUIRED OR USED PERMANENTLY FOR CONSTRUCTION, OPERATION AND MAINTENANCE WORKS - 81,665 m²
- LAND TO BE OCCUPIED OR USED TEMPORARILY - 44,280 m²
- LAND TO BE USE TEMPORARILY AND RIGHTS TO BE ACQUIRED PERMANENTLY - 4,972 m²

SCALE 1:2,500

ANNEX D - PLAN SHOWING DISTANCE BETWEEN ANGLIAN WATER TUNNEL (IDENTIFIED IN DEED OF GRANT) AND PROPOSED CHANGE 2