



Our ref: TR010040

National Infrastructure Planning
Temple Quay House
Temple Quay
Bristol
BS1 6PN

A47 Blofield to North Burlingham
Highways England
Woodlands
Manton Road
Bedford
MK41 7LW



5th October 2021

Dear Mr Hutson,

APPLICATION BY HIGHWAYS ENGLAND FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE A47 BLOFIELD TO NORTH BURLINGHAM SCHEME (TR010040)

Deadline 4a

We refer to the Examining Authority's letter of 21 September in relation to the Applicant's request for a non-material change to the above Scheme (NMC Request) and the Examining Authority's invitation for comments.

Revised masterplan

In developing the revised Masterplan (**REP4-037**) consideration was given to a worst case scenario for developing the Cadent block valve site to allow a robust review of environmental implications. This resulted in an over-estimation of the area of woodland to be removed. The area required for the block valve (20m x 20m) allows space for the block valve equipment and vehicular access. This is the area shown as amenity grassland on the Masterplan (**REP4-037**) and the area to the north should be shown as existing vegetation to be retained. The Masterplan will be amended accordingly and submitted at Deadline 5.

The proposed change for the block valve does result in a slightly greater impact on the woodland but, following a review of the anticipated impacts and proposed mitigation, the conclusions of the residual effect presented in the Environmental Statement do not change.

Proposed siting of the new block valve and location of an oak tree

The oak tree falls within the area of tree group G13 (Mixed Native and naturalised) in the Arboricultural Impact Assessment (ES Appendix 7.7) (**REP1-036**). This group

was identified for partial removal, with the impact and recommended actions as below:

'Fell section in conflict Scheme and protect remainder with temporary barriers in accordance with BS5837:2012. 83% of group retained'.

The assessment covered the route of the pipeline and a greater degree of tree removal will be required for the block valve. The recommended actions will however remain the same although the percentage of trees to be retained will be decreased. The conclusions of the assessment remain robust.

The REAC within the EMP (**REP4-040**) secures a robust strategy and sequence of mitigating measures in relation to the above (i.e. LV2 – arboricultural surveys, B1 – preconstruction surveys, and B7 for vegetation clearance).

Compliance with s123 of the Planning Act 2008

In our letter dated 30 September to the Examining Authority Highways England set out the reasons as to why, in relation to the NMC Request it was considered that s123(2) of the Planning Act is engaged:

Highways England remains of the view that the relatively minor amendments proposed by the NMC Request do not invoke the CA Regulations.

Section 123 of the Planning Act 2008 (2008 Act) states:

- (1) *An order granting development consent may include provision authorising the compulsory acquisition of land only if the [Secretary of State] is satisfied that one of the conditions in subsections (2) to (4) is met.*
- (2) *The condition is that the application for the order included a request for compulsory acquisition of the land to be authorised.*
- (3) *The condition is that all persons with an interest in the land consent to the inclusion of the provision.*
- (4) *The condition is that the prescribed procedure has been followed in relation to the land.*

Highways England considers that Section 123(2) is engaged as:

- 1 It is acknowledged that the NMC Request would result in the permanent acquisition of some "rights" land, and the acquisition of rights over a small parcel of land over which previously only temporary possession was sought.
- 2 That does not alter the fact that the Application (as submitted) did include a request for compulsory acquisition powers over the land to which the NMC Request relates.
- 3 The extent to which compulsory purchase was authorised was limited by the draft DCO, and the way it was shown on the Land Plans and described in the Book of Reference. That does not change the fact that compulsory acquisition powers were sought over the land.

- 4 This interpretation is consistent with the CA Regulations which contain the prescribed procedure for the compulsory acquisition of additional land (see regulation 4) referred to in Section 123(4) of the 2008 Act. Regulation 2(1) of the CA Regulations defines "additional land" as "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".

In summary our view remains that the land to which the NMC Request relates was included in the Book of Reference as land and that the CA Regulations are not therefore invoked.

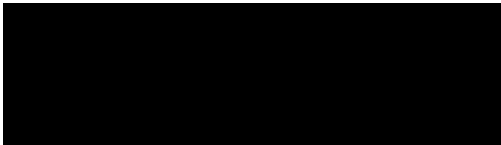
Notwithstanding the above, if the Examining Authority does not agree with our conclusions, compliance with the CA Regulations at this stage of the examination is very challenging from a timetabling perspective. Included as an Annex to this letter is a draft timetable setting out how compliance with the Regulations might be achieved.

We are therefore taking some preliminary steps to comply with the CA Regulations in order to streamline the process in the event that the Examining Authority does not agree with the conclusions as set out above.

Updated Compulsory Acquisition Schedule

Enclosed with this letter is an updated CA Schedule (**TR010040/EXAM/9.4 Rev 5**).

Yours sincerely,



Nikki Rowley-Todd
Project Manager
Highways England

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Compliance with Infrastructure Planning (Compulsory Acquisition) Regulations 2010 – Draft Timetable

PROPOSED TIMETABLE FOR COMPLIANCE WITH Infrastructure Planning (Compulsory Acquisition) Regulations 2010

The table below sets out a draft timetable for compliance with the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regulations). Column 4 shows how the timetable would appear if the maximum time provided for under the CA Regulations was allowed. Given the limited time available until the DCO examination closes on 22 December 2021, Column 5 shows an alternative proposed timetable which has been condensed to fit the remaining time available in the examination.

1. CA Regulation	2. Requirement	3. Notes	4. Timetable with maximum time allowed under CA Regulations	5. Proposed condensed timetable to fit remaining time left in the Examination
	The Applicant made an initial request for the proposed amendment at Deadline 4.	The ExA responded on 21 September 2021 to advise that the procedure in the CA Regulations must be followed.	-	-
Regulation 5	CA Request The Applicant must provide details of the proposed provision to the ExA	CA request formally submitted to the ExA (request to include a supplement to the book of reference, land plans identifying the additional land and a statement of reasons to explain the Applicant's reasons for acquiring additional land and how funding will be secured)	1 October 2021	1 October 2021

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1. CA Regulation	2. Requirement	3. Notes	4. Timetable with maximum time allowed under CA Regulations	5. Proposed condensed timetable to fit remaining time left in the Examination
Regulation 6	ExA's Decision The ExA must decide within 28 days (beginning with the day after the day on which it receives details of the proposed provision) whether or not to accept the proposed provision as part of the application	The ExA's decision is due 28 days following the day after the ExA receives the CA request (ie. 28 days after 2 October) We would ask if the ExA's decision could be made by 8 October 2021	1 November 2021 (28 days after 2 October 2021 is 30 October and 1 November is the next working day)	8 October 2021 (7 days after receipt of the request)
Regulation 7	Consultation Notice The Applicant must provide notice of proposed provision to the required consultees	Delivery of notice to coincide with first newspaper notice (see below).	15 November 2021	18 October 2021
Regulation 8	Newspaper Notices Notice of the proposed provision must be publicised in various newspapers (2 consecutive weeks for the local newspaper)	Based on a 10-14 day lead in time for publication of newspaper notices following ExA's decision	Notice 1: 15 November 2021 Notice 2: 22 November 2021	Notice 1: 18 October 2021 Notice 2: 25 October 2021 (these are the <u>latest</u> anticipated dates for the newspaper notices to be published - notices to be published sooner if possible)
Rule 13 of the Infrastructure Planning (Examination)	Publication of notice of a CA Hearing (or ISH or OFH) (if required)	Unless the ExA directs otherwise, notice of any hearing to be published by the applicant 21+ days before the hearing.	Hearing notice published: w/c 4 January 2022	Hearing notice published: w/c 15 November 2021

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1. CA Regulation	2. Requirement	3. Notes	4. Timetable with maximum time allowed under CA Regulations	5. Proposed condensed timetable to fit remaining time left in the Examination
Procedure) Rules 2010	If a CA hearing is required, the applicant must publish of the hearing 21+ days in advance of the hearing (unless the ExA directs otherwise)	Notice must be finalised 5 weeks + before the hearing to allow a 10-14 day lead in time for publication.	(21+ days in advance of CA hearing w/c 31 January 2022, if required)	(21+ days in advance of CA hearing 16 or 17 December 2021, if required) (notice to be finalised w/c 1 November 2021)
Regulation 13	ExA's notification of deadline for receipt of written representations The ExA may <u>at any time</u> specify the date (being a date not earlier than the end of a period of 21 days) by which a written representation to be submitted from the applicant or an additional affected person must be received by the ExA	Notification of deadline for written (detailed) representation must be made by the ExA 21 + days in advance of the deadline We would ask for notification of the deadline for receipt of written representations to be made by the ExA by 16 November 2021 to provide for a deadline for receipt of written representations on 7 December 2021.	11 January 2021 (21 days in advance of deadline on 1 February 2022 – see ExA's initial assessment below)	Notification of deadline for receipt of written representations : 16 November 2021 (21 days in advance of deadline on 7 December 2021)
Regulations 7 and 8	Deadline for receipt of representations The deadline is at least 28 days beginning with the day after the day on which the person receives the notice (Regulation 7) and 28 days beginning with the day after	Deadline for receipt of representations (28 days + 1 after date the notice is <u>last</u> published in the local newspaper	21 December 2021 (28 days +1 after the second newspaper notice is published on 22 November 2021)	23 November 2021 (28 days +1 after 25 October 2021)

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	the day on which the notice is last published (Regulation 8).			
Regulation 9	<p>Notice of affected persons/certificate of compliance</p> <p>Within the period of 10 working days after the deadline in regulation 7 (2), the applicant must send the SoS notice of any persons with an interest in the additional land and a certificate of compliance with Regulations 7 and 8</p>	<p>Notice of affected persons and compliance certificate to be sent to ExA within 10 working days of deadline for receipt of representations in Regulation 7 notice.</p>	<p>7 January 2022</p> <p>(10 working days after deadline on 21 December)</p>	<p>24 November 2021</p> <p>(1 working day after deadline on 23 November instead of 10 working days)</p>
Regulation 14	<p>ExA's notification of CAH/ISH/OFH (if required)</p> <p>As soon as practicable after receipt of the Regulation 9 notice, the ExA must notify each additional affected person and each additional interested party, of the date, time and place fixed for any issue specific-hearing.</p>	<p>Notification of the hearing due at least 21 in advance of hearing, (or on a previously arranged date if each additional affected person, and interested party agrees in writing)</p> <p>If an additional hearing is required, we would ask for notification of a hearing, to be made by the ExA on 25 November 2021 to allow 21 days</p>	<p>10-14 January 2022</p> <p>(as soon as practicable after 7 January 2022 and 21+ days in advance of hearing in w/c 31 January 2022)</p>	<p>25 November 2021</p> <p>(1 working day after receipt of Regulation 9 notice and 21+ days in advance of hearing on 16 or 17 December 2021, if required)</p>

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		in advance of a potential hearing on 16 or 17 December 2021.		
Regulations 11 and 12	<p>ExA's initial assessment</p> <p>The ExA must make an initial assessment of the issues arising in connection with the proposed provision within 21 days of the deadline specified in the notice under regulation 7(2), hold a meeting if necessary and set the timetable for the examination of the provision including the deadline for receipt of written representations</p>	<p>The ExA's initial assessment is due within 21 days of deadline for receipt of representations in Regulation 7 notice.</p> <p>We would ask if this could be issued within 6 days instead of 21 days.</p>	<p>ExA's initial assessment and notification of deadline for receipt of written representations:</p> <p>11 January 2022</p> <p>(21 days after 21 December 2021)</p>	<p>ExA's initial assessment:</p> <p>29 November 2021</p> <p>(6 days instead of 21 days after 23 November)</p>
Regulations 11, 12 and 13	<p>Deadline for receipt of:</p> <ol style="list-style-type: none"> 1. Detailed Written Representations 2. ExQs 	<p>The ExA may at any time specify the date (being a date not earlier than the end of a period of 21 days) by which a written representation to be submitted from the applicant or an additional affected person must be received by the ExA - Regulation 13 (2)</p>	<p>1 February 2022</p> <p>(21 days from ExA's initial assessment on 11 January 2022)</p> <p>(notification of deadline to take place at ExA's initial assessment)</p>	<p>7 December 2021</p> <p>(8 days from ExA's initial assessment on 29 November 2021)</p> <p>(notification of deadline to take place 21 days earlier on 16 November 2021)</p>

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1. CA Regulation	2. Requirement	3. Notes	4. Timetable with maximum time allowed under CA Regulations	5. Proposed condensed timetable to fit remaining time left in the Examination
Regulations 11 and 12	Deadline for receipt of: 1. Applicant's Response to Detailed Representations 2. Replies to ExQs	Deadline counted from deadline for receipt of detailed representations and ExQs (NB: deadline not specified in CA Regulations)	15 February 2022 (14 days from deadline for receipt of detailed representations and ExQs on 1 February 2022)	14 December 2021 (7 days from deadline for receipt of detailed representations and ExQs)
Regulations 14, 15, 16	Issue Specific Hearing, Compulsory Acquisition Hearing, Open Floor Hearing (if required)	The ExA must notify each additional affected person and interested party, of the date, time and place fixed for a hearing 21+ days in advance of the hearing. Similar notices must be served in relation to any ISH or OFH A notice must be published by the Applicant 21+ days in advance of any prospective hearing (see above) unless the ExA directs otherwise.	w/c 31 January 2022	16 or 17 December 2021
Regulations 11 and 12	Deadline for receipt of: 1. Replies to Applicant's Response to Detailed Representations; and	Deadline counted from date of Applicant's response to detailed representations and replies to ExQs	1 March 2022 (14 days from deadline for Applicant's response to detailed representations and	22 December 2021 (noon) 8 days from Applicant's response to detailed

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	2. Responses to Replies to ExQs	(NB: deadline not specified in CA Regulations)	replies to ExQs on 15 February 2022)	representations and replies to ExQs
	Deadline for close of the examination		22 December 2021	22 December 2021