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The Applicant and All Interested Parties

Your Ref:

Our Ref: TR010040

Date: 8 October 2021

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Dear Sir / Madam,

**Planning Act 2008 (as amended) – Section 89, The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 9 and Rule 13 and The Infrastructure Planning (Compulsory Acquisition) Regulations 2010**

**Application by Highways England for an Order Granting Development Consent for the A47 Blofield to North Burlingham scheme**

**Proposed changes to the original application and notification of Hearings**

**Proposed changes to the original application**

I am writing under Rule 9 of the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) to inform the Applicant of my procedural decision relating to its request to make a change to the original application. I have decided **to not accept** the proposed change to the application.

In my [letter dated 21 September 2021](#), I set out the background to the change request and explained the reasons why, in my view, the proposed change would engage the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regs). This was on the basis that it would include a provision authorising the compulsory acquisition of additional land.

I have had regard to the Applicant's Deadline 4a submissions on the matter and my view on the engagement of the CA Regs remains the same. I note that the Applicant submitted documents at Deadline 4a in the event of this and to comply with Regulation 5 of the CA Regs. I also note that a draft Timetable was submitted in an attempt to demonstrate how the CA Regs time constraints could be met within the remaining Examination period.

I have also had regard to all other responses to my letter at Deadline 4a from Interested Parties and have had regard to paragraphs 109 to 115 of the Department for Communities and Local Government Guidance 'Planning Act 2008: examination of applications for development consent' and the Planning Inspectorate's 'Advice Note 16: How to request a change which may be material'.

Taking all of the above into account, I consider that the proposed change, primarily given that it would make provision for authorising the compulsory acquisition of additional land, would represent a material change to the original application. However, I also consider that the proposed change would not be so material as to constitute a new application and the development being proposed would be in substance that which was originally applied for. Furthermore, in accordance with Regulation 6 of the CA Regs, I am satisfied that the proposed provision would comply with the requirements of Regulation 5 of the CA Regs.

Nonetheless, the draft Timetable provided appears to me to be fundamentally flawed, in that it fails to adequately demonstrate there to be sufficient time remaining in the Examination to accommodate the procedural requirements of the CA Regs within the time constraints. For example, it is proposed that I notify of the deadline for the receipt of Written Representations (WRs) under Regulation 13 of the CA Regs prior to the completion of the Relevant Representation (RR) period set out in Regulation 7. Accordingly, any additional interested person, for example, who was to submit a RR at the end of the RR period would be missed and would not have the full amount of time necessary in which to prepare and submit WRs in any event. This would have implications for natural justice. Furthermore, it does not appear that the notification of the deadline for WRs could be moved to after the RR period without further implications for the draft Timetable. I also have concerns around the proposed timing of any Written Questions I may have to fall on the same date as the Applicant proposes WRs to be submitted. In addition, the draft Timetable does not allow for a meeting to be held at my discretions under Regulation 11, should the need arise.

In order for me to accept the change request, the Applicant would need to provide evidence that all persons (Category 1 and 2) with an interest in the additional land (Plots 5/1b, 5/1e and 5/1g) consent to the provision. Alternatively, the Applicant could seek an extension to the Examination period from the Secretary of State to enable the accommodation of the CA Regs time constraints.

### **Notification of Hearings**

I made an allowance in the Examination Timetable for Hearings to be held in the week commencing 8 November 2021, if necessary. I intend to hold an Open Floor Hearing (OFH), a Compulsory Acquisition Hearing (CAH) and an Issue Specific Hearing (ISH) on Tuesday 9 November 2021. Agendas will be provided at least 5 days before the Hearings.

I have taken into account the continuing uncertainties around COVID-19, including the latest Government guidance and restrictions, together with the likely level of participation in these Hearings and I have decided to hold these Hearings virtually via Microsoft Teams.

Date	Hearing	Time	Venue
9 November 2021	OFH 3	10:00am (Arrangements conference from 9:40am)	Virtual event  Join by digital device or telephone using details to be provided
9 November 2021	CAH 2	11:30am (Arrangements conference from	Virtual event  Join by digital

		11:10am)	device or telephone using details to be provided
9 November 2021	ISH 4 on draft Development Consent Order and Environmental Matters	2:00pm (Arrangements conference from 1:40pm)	Virtual event Join by digital device or telephone using details to be provided

Please confirm your attendance, including if you are intending to speak, to the Case Team using the details at the top of this letter by 2 November 2021.

Information about examination hearings is included in the [Planning Inspectorate's Advice Note 8.5](#).

For information on attending and participating in online hearings please also see the [Planning Inspectorate's Advice Note 8.6](#).

If you have any further queries, please do not hesitate to contact the Case Team.

Yours faithfully,

*Alex Hutson*

**Examining Authority**

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