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To Michael Goddard
National Highways

Your Ref:

Our Ref: TR010056

Date: 7 February 2022

Dear Mr Goddard

Planning Act 2008 - section 89

Application by National Highways (formerly Highways England) for an Order Granting Development Consent for the A417 Missing Link

Notice by Applicant of intention to submit a request for changes to the application

Thank you for your letter dated 2 February 2022 giving notice of National Highways' intention to submit a request for changes to the application. The document has been published on the project webpage of the National Infrastructure Planning website here:

<http://infrastructure.planninginspectorate.gov.uk/document/TR010056-001419>

The letter purports to be notification of a change request in accordance with Step 1 of the recommended procedure in the [Planning Inspectorate's 'Advice Note 16: How to request a change that might be material' \(AN16\)](#). The letter describes changes to the scheme including in respect of compulsory acquisition, temporary possession and land rights, indicating the change request will be submitted at Deadline 4 in the Examination (Monday 14 February 2022). The letter sets out the implications for the Examination in terms of procedure and process should the change be accepted and concludes by asking for the Examining Authority (ExA) to provide advice it has on the Applicant's proposals.

Materiality of the proposed changes

In the Applicant's view the proposed changes are not material. It is ultimately for the ExA to decide whether or not a proposed change is material and the ExA does not at this stage have sufficient information to reach a view as to materiality. It is however noted that the changes include changes to land interests which may necessitate the compulsory acquisition of "additional land" as defined in The Infrastructure Planning

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(Compulsory Acquisition) Regulations 2010 (the CA Regulations). On receipt of the change request at Deadline 4, if this is the case such factors may lead the ExA to conclude that the changes taken together are material.

This means that before accepting the material changes for examination, the ExA will need to have:

- the information identified in paragraphs (a) to (d) in Figure 3 of AN16;
- if landowner consent is not received and the CA Regulations are engaged, the information prescribed by Regulation 5 of the CA Regulations and clarification that the procedural requirements of the CA Regulations can be met within the time remaining of the statutory six-month Examination stage; and
- confirmation that any new environmental effects have been adequately assessed and subject to publicity and that any consultation bodies have been consulted (see paragraph (f) of Figure 3 of AN16).

Consultation

Whether or not the proposed changes are material the ExA considers that the directed consultation that the Applicant has undertaken with relevant Affected Persons is appropriate given the specific targeted nature of the proposed change and further non-statutory consultation is not therefore required.

When submitting the change request, it is recommended that the Applicant submits a statement which:

- lists the persons (affected by the changes) under section 42 (a) to (d) who have been consulted (identifying particularly any new persons ie those who were consulted in relation to the proposed change but not in relation to the original application);
- identifies (within the above list) those section 42 (d) persons who are “affected persons”, meaning those persons over whose land compulsory acquisition powers will be exercised;
- provides justification as to why any person under section 42 (a) to (d) is not affected by the proposed changes and has not therefore been consulted (if any);
- appends as an annex any details of any consultation processes undertaken including any notices published and any responses thereto.

If the ExA decides to accept the changes (whether or not material) into the Examination, all Interested Parties will have an opportunity to make representations on the changed application in writing or orally at hearings as the Examination progresses. Nonetheless, if the ExA is not satisfied with the extent of non-statutory consultation undertaken by the Applicant the ExA may request that further non-statutory consultation is carried out to safeguard the interests of and/ or inform those potentially impacted by the changes who are not already involved in the Examination.

Effect on Examination Timetable

On the assumption that the documentation and change requests are submitted in line with the timetable set out by the Applicant in the letter of 2 February 2022, then the ExA does not anticipate that this will have any effect on the overall timetable for the Examination, although consequential revisions within the timetable to Deadlines may be necessary. However, should any submission not be made in line with that timetable, then the Applicant is asked to give an indication as to how it considers the request can be accommodated within the Examination Timetable.

Next steps

The Applicant is asked to ensure that the change request that is intended to be submitted responds fully to the points made above and contains sufficient information to enable the ExA to prepare further questions, if necessary.

If you have any questions about any of the matters raised in this correspondence, please contact the Case Team using the details provided in this letter.

Yours sincerely

Ken Stone

Lead Member of the Panel of Examining Inspectors

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