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(By Email Only)

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Date: 26 August 2022

Dear Deborah,

**Application by National Highways for an Order Granting Development Consent for the A12 Chelmsford to A120 Widening Scheme**

**Response to scheme adequacy of consultation request**

Thank you for your letter dated 16 August 2022 in which you ask Essex County Council (ECC) for representations on the adequacy of consultation for this DCO submission to enable the Planning Inspectorate to make a considered and informed decision as to the Adequacy of Consultation. You asked that our comments are provided by 29 August 2022 and this response meets this deadline.

Our comments are centred around the pre application stage of the DCO process and as requested gives ECC's considered opinion as to whether National Highways (NH), as the Applicant, has complied with the following duties under the Planning Act 2008:

- Section 42 – Duty to consult
- Section 47 – Duty to consult the local community
- Section 48 – Duty to publicise

In producing this response ECC has considered the Consultation Report (document reference TR010060/APP/5.1) submitted by NH in support of the application dated August 2022. Particular attention has been given to Table 9.1 which sets out how NH

has in their professional opinion complied with the DCLG (2015) guidance on the pre-application process.

## **Section 42**

Section 42 of the Planning Act 2008 prescribes who should be consulted on the proposal. ECC is satisfied (to the best of ECC's knowledge) that NH has correctly identified the parties to be consulted. NH have identified in their Consultation Report how they have complied with the requirements of this section.

## **Section 47**

Section 47 of the Planning Act 2008 obliges developers to prepare a Statement of Community Consultation (SoCC) in consultation with the relevant Local Authorities, publish that SoCC and then undertake statutory consultation in conformity with that statement

NH sent ECC a draft SoCC on 29 January 2021 and we responded on 1 March 2021. The Consultation Report summarises our comments and we are satisfied that our comments were taken into account. The SoCC was published on 22 June 2021.

The statutory consultation was subsequently held between 22 June and 16 August 2021. To the best of ECC's knowledge, ECC has no reason to doubt that NH undertook the consultation in a way that was in accordance with the SoCC and accordingly has complied with the duties set out in Section 47 of the Planning Act.

It should be noted that the statutory consultation took place during a time when restrictions brought on by the Covid 19 pandemic were in place. Whilst this presented some challenges which ECC noted at the time a variety of consultation methods were used to help ensure interested parties were able to take part, including novel approaches such as a virtual exhibition space, in common with other NSIP statutory consultations which were taking place at the time.

## **Section 48**

Section 48 of the Planning Act 2008 obliges developers to publicise their proposals by means of notices in local and national newspapers. ECC has no reason to doubt that NH published the required notices and that the content of those notices complied with the requirements set out in the regulations, and therefore NH complied with their duty to publicise under this section of the PA 2008.

Taking this all into account, to the best of ECC's knowledge NH has carried out adequate pre-application consultation on the DCO application in line with Sections 42, 47 and 48 of the Planning Act 2008.

Notwithstanding this, ECC does have concerns with several aspects of the consultation that we believe are worthy of note at this point. The main concerns are outlined below.

### **Engagement since the statutory consultation and observations on the draft DCO submission documents**

Since the statutory consultation significant engagement between NH and ECC on the project has taken place, and ECC appreciate the information that has been shared over this period. A good example of this is the information that have been shared on forecast traffic flows. While we recognise that this information has been shared voluntarily, in some cases it has taken considerable time for information that we have requested to be provided and this has made it difficult for ECC to reach an informed position on various aspects of the project.

From 1 June 2022 NH began to share with us draft versions of some of the DCO submission documents, and at the point of submitting the DCO application ECC had access to draft versions of many of the application documents which is welcomed. On review of these documents, however, it became clear that NH had undertaken some additional stages in reaching the final datasets used to inform the DCO application which were not clearly explained at the time they took place. These were only uncovered through inconsistencies identified in the draft DCO documents compared to what we were expecting, based on the material we received previously.

It is not, in our view, an issue in principle that these changes took place, but it is an issue that we have had to ask detailed questions and seek further information in order to fully understand how the conclusions and proposals set out in the draft DCO application documents were arrived at. This raises the concern that changes to scheme impacts as set out over the course of the consultations won't be readily understood by stakeholders that have not had the same level of dialogue with NH.

We do additionally have a concern that the way in which the draft DCO documents have been compiled could mean it is difficult for stakeholders to fully comprehend the impacts of the scheme at particular locations. It would have helped, for example, if the Transport Assessment had included a brief listing for each major junction and/or location of interest as to where the associated commentary and detailed technical information could be found in the Combined Modelling and Appraisal Report, Environmental Statement and their very substantial appendices. Whilst we hope that we have been able to compile and interpret the different technical elements of the draft DCO application documents to achieve a good understanding of the scheme and its impacts, this required a substantial amount of work and resources. We are not by any means suggesting there is any intent by NH to deliberately make understanding the full extent of the scheme's impacts difficult, but it will be important that continued efforts

are made to ensure the information is accessible and intelligible to all stakeholders affected by the project.

### **Changes that have been made to the scheme following consultation**

As would be expected for a scheme of this scale, there are numerous examples of where NH have made changes to the proposed scheme since the first non-statutory consultation was undertaken in 2017 of which some will be in response to feedback received. These changes are set out in section 7.4 of the Consultation Report.

ECC supports many of the changes made. We do consider however that in some cases the changes which have been made do not go far enough, and moreover we believe that in most cases changes have only been made where they have been relatively straightforward for NH to incorporate into the scheme. NH have to date not agreed to any of the more substantive changes that have been requested by ECC. Put bluntly, there is a concern that NH have hitherto opted not to address legitimate concerns held by ECC and other stakeholders on aspects of the scheme that may have the biggest impacts locally whether that be because of cost, need for additional land-take or impact on programme.

### **Other observations**

Whilst a number of consultations have taken place on the scheme the magnitude of this NSIP proposal is hugely significant and will have a lasting impact on the local highway network, the environment and communities. Although consultation on the scheme began in 2017 it is only since the statutory consultation held last summer (and in some cases much later) that detailed information including the proposed junction arrangements has become available and hence the time stakeholders have had had to engage meaningfully with NH on the scheme has been quite limited.

When considered against other comparable NSIP proposals of a similar scale, ECC considers that since the statutory consultation the process has been fast tracked to the extent that some of the issues held by ECC and other stakeholders which could have been resolved by the point of DCO submission remain outstanding. For these reasons, preferably before to allow more time to resolve issues, or, if the Planning Inspectorate accepts the DCO application, we believe it will be particularly important in the case of this project for NH to continue working with stakeholders including ECC over the coming months, with a willingness to make changes where justified, to resolve as many of the outstanding issues as possible prior to the conclusion of the DCO examination.

I trust that this response is helpful, but if we can provide any further assistance please don't hesitate to contact me or either of the contacts below.

Yours sincerely,



**Graham Thomas**  
**Head of Planning & Sustainable Development**

Enquiries to:  
Mark Woodger



Gary Macdonnell

