



The Planning Inspectorate

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To:

The Applicant

Your Ref:

Our Ref: TR010062

Date: 26 January 2023

Dear Applicant,

Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 9

Application by National Highways for an Order Granting Development Consent for the A66 Trans-Pennine Dualling Project

Intention to submit change request to the DCO application

I refer to your letter of 17 January 2023 in which you responded to the Procedural Decision [PD-008] of 6 January 2023. Your letter can be found in the Examination Library under reference [REP2-042].

You state that to accord with the step approach set out in Figure 1 of the Planning Inspectorate's Advice Note 16 (AN16), you need to carry out non-statutory consultation before a written material change request is made. It also echoes our advice from the 6 January letter that this should be begun as soon as possible.

As a consequence of the above, your current planned consultation on all of the proposed changes is to be undertaken between 28 January 2023 and 27 February 2023. Your letter rightly goes on to say that "the consequence of this approach is that there is considerable added pressure on the latter stages of the Examination period". In an attempt to address this, you have prepared a suggested revised Examination timetable that you have annexed to the letter.

The Examining Authority (ExA) again refers to AN16 which provides information to applicants about how to request a change to an application after it has been accepted, and before the close of the Examination. Figure 1 of AN16 provides the six steps an applicant should follow when considering a change request. They are as follows:

- **Step 1** Applicant decides to request a material change to an application which has been accepted for examination and informs the ExA in writing.

- **Step 2** ExA provides advice to the Applicant about the procedural implications of the proposed material change and about the need, scale and nature of consultation that the Applicant may need to undertake.
- **Step 3** Applicant carries out non-statutory consultation about the proposed material change. This step may be undertaken earlier if it would save time and inform the Applicant's approach.
- **Step 4** Applicant makes a written material change request asking the ExA to examine the changed application by providing the information set out in Figure 3.
- **Step 5** ExA makes a Procedural Decision on whether or not to examine the changed application and how it should be examined.
- **Step 6** Where the ExA has decided that the changed application can be examined, the Examination proceeds in consideration of the changed application. Where the ExA has decided that the changed application cannot be examined, the Applicant will need to decide whether to proceed with the Examination on the basis of the submitted application. See paragraph 5.5 for more details.

As no non-statutory consultation has yet taken place on the proposed changes, in terms of the step approach in Figure 1 of AN16 the ExA consider that the process is still at Step 2.

Therefore, at this stage of the process, the ExA is of the view that as no change request has been submitted, revisions to the Examination timetable cannot be made. This is because the ExA cannot accommodate an event (i.e., the change request) that ultimately might not happen. The ExA will continue with the Examination timetable as set out in Annex A of the Rule 8 letter [PD-007].

Notwithstanding this, the ExA agrees with your view that when considering the procedural implications of your suggested submission date for the change request, it is very likely to create added pressure near the end of the Examination process.

The pressure at the end of the Examination is most likely to be a result of the procedural implications arising from the proposed changes which require "additional land" (as defined in The Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the CA Regulations)).

The ExA is still unaware of the exact scope and nature of the proposed changes but notes from your letter of 16 December 2022 [REP1-008] that at least two of the approximately forty changes you anticipate will require additional land. Taking this relatively small number into account and the potential consequential need to allow enough time for the reopening of Relevant Representations and the need to schedule time for hearings, if required, consideration could be given to submitting separately the changes that involve additional land being earlier in the Examination. The remainder of the other changes not requiring additional land could follow in a second change request more in line with your suggested submission date of 24 March 2023.

Early submission of the changes requiring additional land could maximise time for written submissions and to ensure any potential additional hearings can be accommodated, reducing any procedural risks for the ongoing Examination.

In summary the ExA is concerned that your suggested change request submission date, for all of the proposed changes, of 24 March 2023, which is close to the end of the fourth month of the Examination and prior to four Bank Holidays, could well create added pressure at the end of the Examination. Consequently, the ExA will need to take account of deliverability within the statutory timescale in any decision to accept the change request

within the Examination. The ExA therefore request you to explore the potential for accelerating the submission of the elements of the change request that have the largest procedural impact on the Examination timetable as outlined above.

Yours sincerely,

Richard Allen

Richard Allen
Lead Panel Member for the Examining Authority

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